

Booklet on

Constitutional Policy of Reservations (CPR)

- Philosophy
- Provisions
- Misconceptions
- OBC factor

Published by



CPR INDIA MISSION

देश में सामाजिक सौहार्द और बन्धुभाव प्रस्थापित करने के लिए



CONTENTS

No	CHAPTER	PAGE
	Prelude	3
I	Genesis / Origin of Constitutional Policy of Reservations (CPR)	6
II	Scope & Applicability of CPR in Employment.	12
III	Discriminatory Hiring practices In Private Sector.	17
IV	Objectives of CPR.	23
V	1 st Misconception “Reservations Are Based On Castes”.	24
VI	2nd Misconception “Reservations & Relaxations are one and same”.	31
VII	3 rd Misconception “Reservations Were Only For 10 Years	37
VIII	4th Misconception “Reservations Cannot Exceed 50%”.	41
IX	Who are opposing Proportional Reservations to OBC and Why ?	47
X	Social Backwardness and Economic Backwardness.	50
XI	10 % Reservations to Economically Weaker Sections (EWS).	55
XII	The Concept of Creamy layer.	58
XIII	Merit of Un-reserved And Efficiency of Reserved.	62
XIV	A Nationalist & Rationalist Scheme of Equal Participation.	68
	Proposed Certificates of Social Justice to SC ST OBC.	70
	Reservations Wont Be Required If.	74
	<i>Vedic Reservations versus Constitutional Reservations</i>	75

PRELUDE

1. Constitution of India is not a mere legal document of law, it is the product of the values, principles and ideals which emerged from Indus Valley Civilization and which were carried forward by thought processes of Charvaka, Mahavir, Buddha, Guru Nanak, Basaveshvar, socio religious churning of saints like Ravidas, Kabeer, Tukaram, Guru Ghasidas, the social movements led by Iyothee Thas, Jyotirao Phule, Narayan Guru, Mangoo Ram, Shahu Maharaj, Periyar Ramaswamy, Dr Ambedkar, Sant Gadge Maharaj.
2. Constitutional Policy of Reservations (CPR) is one of the many vital provisions of Constitution which is erroneously perceived more as an END rather than as MEANS to achieve a much broader objective. That's the reason we witness intense emotions, sentiments and also hatred associated with this topic. The discussions regarding Constitutional Policy of Reservations (CPR) even among the OBC SC ST groups, who are the **Beneficiaries of Reservations (BOR)** are limited for availing the education, employment and political purposes.
3. No country can evolve into a strong nation with a socially fragmented society, CPR was intended to be a mechanism to **bring together, empower, consolidate, protect and integrate** more than 5000 OBC groups, 1108 SC groups, 750 plus tribal groups, more than 300 NT, 200 DNT groups which constitute 80 to 85% population of this country and ensure their **participation in governance, law making, law implementation, making policy decision in administration**. Surely a good beginning has been made but now different social groups who are united by the CPR are pitted against each other on the pretext that certain groups are benefitted more than others.
4. The percentage of people who have enjoyed / enjoying the protections and benefits of Reservations is 80%-85%, but today whether the overall popular **public perception** in the country is PRO Reservations or ANTI Reservations? It is definitely AGAINST the policy of Reservations, the process of engineering NEGATIVE public opinion is not restricted to policy of Reservations only; as this policy is the constitutional mandate the Constitution of India is also being targeted and maligned which is more serious.
5. This is the result of those few people who are NOT in favour of this affirmative policy and are therefore spreading false notions, hatred and confusions about Constitutional Policy of Reservations. Most of the allegations and misconceptions regarding Constitutional Policy of Reservations (CPR) are due to **IGNORANCE** leading to hatred and contempt towards OBC SC ST NT DNT categories. The 80%-85% **Beneficiaries of Reservations (BOR)** have failed to clear this bad air about

Constitutional policy of Reservations, though being in vast numerical majority than the Anti Reservationists.

6. The social atmosphere in the college campuses and workplaces is becoming more divisive and tensed on this topic of Reservations. The discussions and debates are becoming more superficial and sentimental leading to creation of false perceptions. At times the OBC SC ST NT DNT students, employees have to face **humiliation and insults** on the issue of Reservations. Because of this not only the children, students but also the employees, officers have started developing an **inferiority syndrome** about being **Beneficiaries of Reservations** and a sense of guilt is being installed in their minds. Both Ant-Reservationists & Pro-Reservationists are not equipped with right facts, logical arguments and objective clarity to effectively discuss the different aspects about Reservations.

7. It was not the issue of Reservations which led to the unfortunate end of Dr Payal Tadvi in May 2019, a PG student of BYL Nayar Hospital and TN Medical College, Mumbai, it was the consequence of the **ignorance** about Constitutional Policy of Reservations (CPR) in the **Bahujan society** who could not accordingly nurture and shape the mind of Dr Payal Tadvi. The Bahujan society have NOT socially, morally and mentally **prepared** Dr Payal to DEAL with the discriminatory tendencies, it did NOT **empower** Dr Payal to FIGHT with the discriminatory tendencies.

8. Therefore the misconceptions about Constitutional Policy of Reservations (CPR) are required to be cleared. The **Beneficiaries of Reservations (BOR)** have availed the benefits and protections not only as individuals but by virtue of being members of OBC SC ST NT DNT community, hence it becomes their **social and moral responsibility** to dispel the false notions and explain the right aspects about CPR to the people. It is also the **duty of government officials** and particularly those who are in their positions because of CPR to explain the constitutional provisions in the right perspective to the larger public.

9. What is the **social and moral mandate** behind the Constitutional policy of Reservations ? Constitution makers were aware of the fault lines created by the varna and caste system in the society, CPR is a constant reminder to the State well as to the society that these fault lines should be filled up by destruction of the notion of caste and its causative factors. Article 15, 16, 330, 332 which provide **PROTECTIONS** in the form of Reservations also has the silent mandate to the state and society to take steps for abolishing the vicious Varna and caste based social order.

10. This write up is a mere compilation of information, facts, data from various literary and web based sources, inputs derived from talking and listening to many scholars, activists in Constitutional Ambedkarite movement. It is meant for achieving the objective of reducing hatred, anger and hostility on this issue in the society by making ourselves capable and competent to understand

and explain the Constitutional policy of Reservations (CPR) to other people in the society. This compilation can be freely shared / translated by anyone, in their own name or in the name of their organizations. If anyone wants the soft copy of this compilation kindly convey on given mobile number and email address. If you find any errors in this write up please feel free to correct and communicate at cprindiamission@gmail.com

Date - 25/08/2019
Nagpur, Maharashtra

CPC - Central Planning Committee
CPR INDIA MISSION

I - GENESIS / ORIGIN OF POLICY OF RESERVATIONS.

1874 - In the state of Mysore 20% of post were reserved for Bramhins in the police department and 80% for Non Bramhins, Muslims, Indian Christians

1882 - The suggestion of this protective, participative, affirmative thought, as a policy measure to address the socio-historical wrongs, was first given by **Mahatma Jyotirao Phule** who is also known as “**Father of Social Revolution**” of Modern India. *Lord Ripon* appointed the first Indian Education Commission on 3rd February **1882** to inquire, investigate into the condition of Education system with emphasis on Primary education and submit his recommendations. *Sir William Hunter* (a member of viceroy’s Executive Council) was appointed as the chairman of the commission. Besides the chairman, the commission consisted of 20 other members. There was a good representation of missionaries and Indians in the commission. Among the Indian members were Syed Mahmud, Bhudev Mukherjee, Anand Mohan Bose and K.T.Telang.

In his 6 pages Memorandum submitted to Hunter Commission, Mahatma Jyotirao Phule, on page 2, para 2, records *“One of the most glaring tendencies of Government system of high class education has been the virtual monopoly of all the higher offices under them by Brahmins. If the welfare of Ryot (common masses) is at heart, if it is the duty of the Government to check a host of abuses, it behoves them to narrow this monopoly day by day so as to allow a sprinkling of the other castes to get into the public services.”*

MAHATMA JYOTIRAO PHULE pointed out 2 important issues, **first** - virtual monopoly of all the higher offices under British government by Brahmins and **second** – abuse of this monopoly to the disadvantage of the other castes. This recommendation laid down the foundation of the protective and participative policy of Reservations in modern India. *(Though the suggestion about free & compulsory education was not acted upon by British government later on the government of free India realized their importance after 120 years AND in **2002** primary education was made compulsory and also a “Fundamental Right” by inserting Article 21A. To give effect to this Constitutional Amendment ‘Right To Education Act’ was framed in **2009**.)*

1902 - The King of **KOLHAPUR** a Princely State in Maharashtra - **Chatrapati Shahu Maharaj** who was influenced by the social movement of Jyotirao Phule, was a visionary and benevolent ruler, implemented the recommendations given by Jyotirao Phule to the first Indian Education Commission and introduced **50% Reservation** to all Backward Castes in the services of Kolhapur Princely state on **26 July 1902**. An important point to note was the mention of 4 Forward Castes - **Brahmin, Shenvi, Prabhu & Parsi** castes which were specifically **excluded** from the definition of Backward Castes. He also established separate boarding schools, hostels for the students of backward castes and provided free education to the students of backward castes.

1912 - The Dewans to the Maharaja of Mysore State usually happened to be the Tamil Bramhins of Madras Presidency or Telugu Bramhins, therefore the Mysore Bramhins requested the Maharaja to stop this domination. Accordingly in 1912 **M Viswesaraya** a Mysore Bramhin was appointed as Dewan.

1918 - The Non Brahmin backward groups led by Praja Mitra Mandali an organization of Vokkaliga, Lingayat, Mudaliar communities gave representation to **Maharaja Krishnaraj Wodeyar** of Mysore for giving reservations to Non Brahmins in government jobs because of the existing monopoly of Brahmins. The Dewan M Viswesaraya opposed this demand, however the Maharaja decided to go ahead and formed a committee for examining the issue under Chief Judge **Leslie Miller**, in protest M Viswesaraya resigned from his post of Dewan.

1919 - The Committee under the Chairmanship of Leslie Miller also included non official members from different communities - Brahmins, Lingayats, Vokkaligas, Backward castes, Muslims. The Committee submitted its report in 1919 recommending **75%** reservations to Non Brahmins and stated that the representation of backward classes should be gradually increased to 50% in all departments of state services in time bound manner as long as they possess the prescribed qualifications.

1921 - The State of **Madras** (Tamil Nadu) had 4 Medical colleges and 4 Engineering Colleges, when **Justice Party** came to power in 1921, it issued a Government Order prescribing the following distribution for every 14 seats :-

Non-Brahmin (Hindus)	...	6
Backward Hindus	...	2
Brahmins	...	2
Harijans	...	2
Anglo-Indians and Indian Christians	...	1
Muslims	...	1

The above procedure ensured proportional representation to candidates from all categories.

1928 - Indian Statutory Commission (Simon Commission) - Dr B R Ambedkar on behalf of Bahishkrit Hitakarni Sabha (Depressed Classes Institute) submitted a statement with reference to re-constitution of Bombay Presidency and following observations / suggestions regarding **Indianisation of Public services and the claims of Backward classes were put forth:-**

- The Non Brahmins, Depressed classes & the Mohammedans are virtually excluded from the public services of the country. They are carrying on an intense agitation for securing to themselves what they regard as a due share of public services. With that purpose in view they prefer the system of appointment by SELECTION to the system of appointment by OPEN COMPETITION.

- This is vehemently opposed by the Brahmins and the allied castes on the ground that the interests of the State require that EFFICIENCY should only be the consideration and caste creed should count for nothing.

- The system of competitive examination may result in fairness to all castes and creeds under a given set of circumstances - that the educational system is sufficiently democratic, that the educational facilities are sufficiently widespread and sufficiently used to permit all classes to compete.

- Otherwise even with the system of open competition large classes are sure to be left out in cold.

- Those who lay exclusive stress upon EFFICIENCY as the basis for recruitment in public services do not seem to have adequate conception of what is covered by administration in modern times. To them

administration appears to be nothing more than the process of applying law as enacted by the legislature. Beyond question that is a very incomplete understanding of its scope and significance.

*- Under pressure of times or from convenience, a government department is nowadays entrusted with wide powers of **rule making** for the purpose of administering a particular law. It includes making up of the rules which have the force of law and of working them out. This system of legislation by delegation has become a very common feature of all modern governments.*

*- Such wide powers of **rule making** affecting the welfare of large classes of people cannot be safely left into of administrators drawn from one particular class. For officers drawn from a particular caste and in whose mind consciousness of caste sits closer than conscientious regard to public duty, may easily prostitute their offices to the aggrandizement of their community and to the detriment of general public.*

*- My view is that the disadvantages arising from the class bias has outweighed all the advantages attending upon their efficiency and they have done more harm than good. As to the remedy the one I see is **a proper admixture of the different communities in the public service**. This may perhaps import a small degree of inefficiency but it will supply the most valuable corrective of the evils of class bias.*

For **political representation** Dr B R Ambedkar put forth before the Simon Commission the demand of adult franchise with **reserved seats in joint electorates** accompanied with, if adult franchise is not given than **separate electorates** for Mohamedans, Depressed classes, Non Bramhins & Anglo Indians.

[Joint electorate - where all eligible voters in the constituency irrespective of caste and religion have the right to vote. In case of minorities who are scattered in small numbers in the constituencies this is not considered to be the appropriate system because it would ultimately be the **majority community** who would be electing that minority candidate which is suitable to them thus deciding the outcome of the election. Even if the minority community votes enbloc to the candidate who it feels is their **true and honest representative** still that candidate will not be elected because the majority community may NOT vote to this candidate but only to their choice of candidate.]

[Separate electorate - where only the voters of that minority community be it Mohamedans or Depressed classes or Anglo Indians will be eligible to vote and voters from majority community would not be allowed to vote. In this system the outcome of the elections is decided by the minority community as the majority community will not have any role to play in electing the candidate]

So as to discuss, review and incorporate the proposals of Simon Commission into the future constitution of India three Round Table Conferences were called in **London** from 1930 to 1932. A separate **Sub-committee of Minorities** was constituted which was chaired by British Prime Minister Ramsay MacDonald to deliberate upon the position, safeguards and rights of all the minorities in the future Constitution of India.

Nov 1930 to Jan 1931: First Round Table Conference - Indian National Congress boycotted this Conference. Dejected by the attitude of Indian National Congress led by Mahatma Gandhi towards the demands of political rights, in public services and in education by Depressed classes before Simon Commission Dr Ambedkar made his propositions more sharper. A Memorandum was submitted by Dr B R Ambedkar & **R Srinivasan** to the Sub-committee of Minorities recommending following safeguards for the Depressed classes-

- 1) Right to adequate representation in the legislatures - Central and Provincial.
- 2) Right to elect their own men as their representatives by adult franchise through **separate electorates for first 10 years** and thereafter by joint electorates plus reserved seats.
- 3) Destroying the monopoly of few castes in public services, **adequate representation to all communities** including Depressed classes, establishing a Public Service Commission at Centre and in each Provinces for regulating the recruitment.
- 4) Right to be represented in the Cabinet also.

Sept 1931 to Dec 1931 : Second Round Table Conference - Mahatma Gandhi attended the conference as the sole representative of Indian National Congress claiming to represent all the Indian masses and various sections of Indian society including Depressed Classes. He refused to grant political recognition to any other community except Muhammedans and Sikhs, he was not prepared to recognize Depressed classes, Indian Christians and Anglo Indians. Mahatma Gandhi however made it clear that he is not opposed to representation of Untouchables in the Legislatures but opposed to their **special representation**. He stated that **“What these people need more than election to the Legislatures is protection from social and religious persecution.”**

As the Indian members of the Minorities Committee were unable to arrive at consensus and mutual agreement the Chairman British PM Ramsay MacDonald was requested to work out the solution to this problem.

16 Aug 1932 Communal Award by Ramsay MacDonald declared the following settlement provisions :-

- Separate electorate with reserved constituencies for Depressed classes along with Muslims, Sikhs & Anglo Indians.
- 78 reserved seats to Depressed classes in provincial legislatures.
- This was for a limited period of 20 years.
- The Depressed classes were also granted “Dual voting rights” that is right to vote in both Joint electorates as well as separate electorates.

24 Sept 1932 Poona Pact : Mahatma Gandhi, lodged in Yerwada jail, Pune because of his Civil Disobedience movement, started fast unto death against the grant of separate electorate to Depressed classes which compelled Dr Ambedkar to forgo the same and to settle down with the following

- Joint electorate with reserved constituencies for Depressed classes.
- 148 reserved seats in provincial legislatures and 18% seats in central legislature.
- In the reserved constituencies there will be **primary election** in which only the members of Depressed classes will select a panel of four candidates among themselves and these four candidates will only be eligible to contest in the elections through joint electorate. This system shall be for 10 years only.

Though he signed the Poona Pact out of humanitarian compulsions Dr Ambedkar never agreed upon the joint electorate, he also repudiated the primary elections and panel system, instead he suggested that the

candidate in the final elections should only be declared elected if he secures minimum percentage of votes from Depressed classes.

Government of India Act 1935 - The provision of joint electorate with reserved seats was incorporated in this Act. The nomenclature of Depressed Classes was replaced by Scheduled Castes and Scheduled Tribes.

Constitutional Provisions - When the Indian Constitution came into force with effect from 26 January 1950, protection in the form of Reservation was provided in two areas – first in law making and second in public services.

Law making - The provision of joint electorate with reserved seats for SC & ST in Lok Sabha as well as State legislatures was made vide Articles 330 & 332. This provision was limited only for 10 years vide Article 334.

Public services – All the Backward Classes who are NOT adequately represented in the **public services** were provided Reservations in appointments and posts vide **Article 16 (4)**.

*However no such specific and explicit provision was made for ensuring equal opportunities in the fields of **EDUCATION**, the necessity to do so aroused when Supreme Court vide judgment dated **09/04/1951** struck down the Government Order of State of Madras giving **Proportional Representation** to all the classes in the admissions to Medical & Engineering colleges in the case of **State of Madras v. Champakam Dorairajan (AIR 1951 SC 226)**.*

After Independence the State of Madras issued Government Order No. 1254 Education dated 17/05/1948 (and subsequently G.O. No. 2208, dated June 16, 1950) laying down rules for the selection of candidates for admission into the Medical Colleges as per the procedure prescribed in the **Government order 1921**. On **June 7, 1950**, a Bramhin lady *Srimathi Champakam Dorairajan* filed a writ petition in the High Court of Judicature at Madras against the above procedure under article 226 of the Constitution for protection of her fundamental rights under article 15 (1) and article 29 (2) of the Constitution.

The High Court by its judgment delivered on **July 27, 1950**, allowed this writ petition and struck down the above Government Order. The State of Madras filed appeal in Supreme Court which was **dismissed** vide judgment dated **09/04/1951** declaring that *“the Government Order being inconsistent with the provisions of article 29 (2) in Part III of the Constitution is void under article 13.”*

Periyar Ramaswamy, the great rationalist leader launched a fierce agitation in Tamil Nadu which later on forced the Nehru government to override the Supreme Court judgment by way of First Amendment Act 1951 on **18th June 1951** and **Art 15 (4)** was inserted which empowered the State to make special provisions in favour of Backward classes in the matters of EDUCATION also.



His Highness Chhatrapati Shahuji Maharaja

Notification

General Department

Kolhapur, Dated 26th July, 1902, No. 11

Endeavors have been made in recent years in the Kolhapur State to foster and encourage the education of all classes of the subjects, so far, but His Highness regrets to have to record that those endeavors have not in the case of the more backward classes met with the success that was hoped for. His Highness, has had the matter under very careful consideration, has come to the conclusion that this want of success is due to the fact that the rewards for the higher education are not sufficiently widely distributed.

To remedy this to a certain extent and to establish within the State an incentive to the backward classes of His Highness's subjects to study upto a higher standard His Highness has decided that it is desirable to recover for those classes a larger share of employment in the State service's; than has hitherto been the case.

In the pursuance of this policy His Highness is pleased to direct that from the date of this order, 50 per cent of the vacancies of that may occur shall be filled by recruits from among the backward classes. In all offices in which the proportion of officers of the backward classes at present is less than 50 per cent, the next appointment shall be given to a member of those classes.

A quarterly return of all appointments made after the Issue of this order shall be submitted by all Heads of Departments.

For the purpose of these orders the backward classes shall be understood to mean all castes other than Brahmins, Prabhus, Shenavis, Parsees and other advanced classes.

- By Order of His Highness Chhatrapati Maharaja

- K. N. Pandit, Acting Diwan

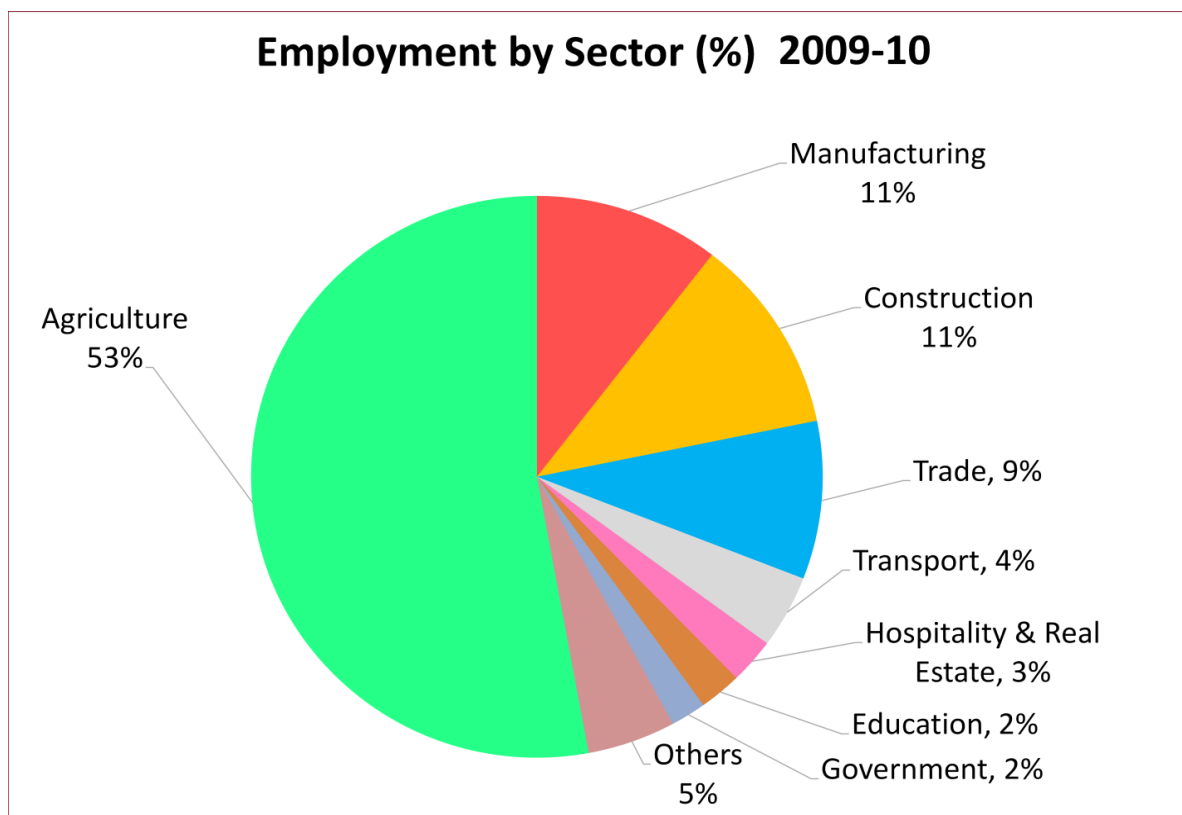
(करवीर सरकारचे नॉटिफ, भाग १, २६ जुलै १९०२)

II - SCOPE & APPLICABILITY OF RESERVATIONS IN EMPLOYMENT

Before beginning the discussion about the Constitutional policy of Reservations (CPR), let us see the employment scenario in India. Entire employment can be divided into

A] Un-organized / Informal sector – Here falls all sorts of self employment and employment provided by enterprises, firms where number of workers is less than 10. In such economic / business activities various labour laws and social security laws are not applicable because of their peculiar nature and non maintenance of any record, any data. This is therefore a self governed sector which *constitutes provides roughly 90% of total employment* and where Agriculture and allied activities account for more than 50%.

B] Organized / Formal sector - Here the employment is provided by formally registered / licensed firms, companies, undertakings in accordance with various labour laws and social security laws. This sector constitutes remaining **10%** of total employment out of which **8%** employment is provided by private / corporate sector and only **2%** by government / public sector.



NSSO 66th Nationwide Survey, Planning Commission, Government of India (June 3, 2014)

So in totality it is only **2% government / public space** of employment in which the protective mechanism in the form of “Constitutional policy of Reservations” to SC, ST, OBC categories is applicable. And statistics show that the Reservations for OBC, SC, ST, NT, DNT categories even in this **2%** government space are not FULLY implemented.

This 2% space is further shrinking because of following reasons :-

First - **Privatization** of public sector undertakings, enterprises, banks, financial institutions Since 1991 **eleven** Central PSE's and **twenty two** public hotel units were privatized. List of privatized PSU's is given at the end of this chapter. For more details of privatized PSU's kindly visit the website of Ministry of Finance, Department of Investment & Public Asset Management (DIPAM) at <http://dipam.gov.in/brief-notes-privatised-central-public-sector-enterprises-cpses>

Second - **Outsourcing / contractualisation of non-core services** by government departments / institutions / corporations / PSU's which has resulted in appointment of workforce as per the discretion of the private contractor / agency / service without ensuring social diversity thus ending the claim of erstwhile OBC SC ST NT DNT workforce. In the process of **Privatization** the loss of opportunity to backward categories is limited to the number of PSU's privatized however in the process of **outsourcing / contractualisation** the loss of opportunity becomes all pervading in all the existing government departments / institutions / corporations / PSU's.

Third - **Faulty implementation of CPR**, following wrong practices can be cited :-

- a. In some institutes, professional colleges at the time of admission merit lists of OBC SC ST and Open categories are prepared in such a way that OBC SC ST candidates are restricted only to OBC SC ST categories and despite securing cut off marks at par with Open category (without availing any relaxation in age or attempt) **meritorious reserved category (MRC)** candidates do not get listed in Open category list. Seats from the reserved quota are filled first and then remaining seats are allotted to Open category **duly excluding meritorious reserved category candidates**.
- b. At institutional levels during direct recruitment there are many instances where applications of eligible candidates from Backward classes were rejected only because the vacancies were for **open category** implying that OBC SC ST NT DNT candidates, though eligible, cannot apply against vacancies for open categories.
- c. Reservations has been provided to **OBC** in Universities only up to the post of **Assistant Professors**, no reservations are provided to OBC for the post of Associate Professors, Professors & Senior Professors by direct entry.
- d. Non preparation, non maintenance & non operation of reservation rosters as per instructions of DoPT (Department of Personnel & Training).
- e. When appointment is made to posts less than 14 in number the **14 point roster** is implemented where out of 14 points only **05** points are reserved and **09** are un-reserved resulting in only 35.7% reservation as against 49.5% mandated by Supreme Court.
- f. Single entry posts and isolated posts.

Fourth - Judgments of Supreme Court

No	YEAR	JUDGMENT	STATUS
1	1962 1992	Quantum of Reservations cannot exceed 50% except in extraordinary circumstances.	Judgment still in effect.
2	1967	No reservation in promotion within Group A posts	Judgment still in effect.
3	1992	Reservation shall not be provided to creamy layer among OBC	Judgment still in effect.
4	1992	No reservations in super speciality courses, posts, institutions of excellence, national & strategic importance,	Judgment still in effect.
5	1992	No reservations in promotions.	Nullified by 77th Constitution Amendment & Article 16(4A) was inserted in 1995.
6	1992	The limit of 50% will be applicable to backlog vacancies also.	Nullified by 81st Constitution Amendment & Article 16(4B) was inserted in 2000.
7	1996	No relaxations in standards of evaluation while granting reservations in promotions.	Nullified by 82nd Constitution Amendment & proviso was inserted in Article 335 in 2000.
8	1996	Those promoted through reservations will not retain the consequential seniority.	Nullified by 85th Constitution Amendment & proviso was inserted in Article 16(4A) in 2000.
9	2006	Reservation in promotion is an enabling provision, not a fundamental right.	Judgment still in effect.
10	2006	Confirmation of 03 Pre conditions before giving Reservation in promotion - Social backwardness, Inadequate representation & maintenance of overall administrative efficiency.	Except first condition, other two conditions are still in effect. Supreme court judgment dated 26 Sept 2018.
11	2018	Parliament as well Constitutional courts are competent to take decision regarding exclusion of creamy layer from SC ST.	Judgment still in effect.
12	2019	A department should be considered as a unit for operating Reservation rosters instead of University/Institution.	Central Educational Institutions (Reservations in Teachers Cadre) Act 2019 was passed.
13	The matter whether Meritorious Reserved category (MRC) should be considered from Reserved or Un-reserved category is being heard.		

As per the Supreme Court judgment in Indira Sawhney case (Mandal judgment) of 1992 CPR is NOT implemented for super specialty posts, super speciality courses in medical and engineering, physical sciences, mathematics, institutions of excellence, institutions of national & strategic importance, defense services, technical posts in research and development organizations / departments / institutions etc. Accordingly the following institutions have been kept out of the purview of Reservation :-

1. Homi Bhabha National Institute, Mumbai and its ten constituent units, namely:

- Bhabha Atomic Research Centre, Trombay
- Indira Gandhi Centre for Atomic Research, Kalpakkam
- Raja Ramanna Centre for Advanced Technology, Indore
- Institute for Plasma Research, Gandhinagar
- Variable Energy Cyclotron Centre, Kolkata
- Saha Institute of Nuclear Physics, Kolkata
- Institute of Physics, Bhubaneswar
- Institute of Mathematical Sciences, Chennai
- Harish-Chandra Research Institute, Allahabad
- Tata Memorial Centre, Mumbai

2. Tata Institute of Fundamental Research, Mumbai

3. North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Shillong

4. Physical Research Laboratory, Ahmedabad

5. Space Physics Laboratory, Thiruvananthapuram

6. Indian Institute of Remote Sensing, Dehradun

7. Shri Mata Vaishno Devi University, Katra

8. National Brain Research Center, Manesar, Gurgaon

9. Jawaharlal Nehru Center for Advanced Scientific Research, Bangalore

It will be appropriate to give the details of faculty position of SC ST OBC in various Central, State & Deemed Universities which are given in the following chart on **page 265 of UGC Annual report 2016-17, chapter 7.**

During the year 2016-17 the information submitted by 30 Central, 82 State Public and 14 Deemed Universities (under section 12B of the UGC Act) regarding Teaching, Non-Teaching Posts, Students Admissions, & Hostel Residents are as follows:

7.2(i) Teaching Staff **: 2016-17

Type of University	Posts	Number of Posts	Number in Position out of Total Filled					*Out of the Total		
		Sanctioned	Gen.	OBC	SC	ST	Total*	PwD	Muslim	Other Mino. Commu.
Central Universities	Assistant Professor	7888	4112	839	701	399	6051	107	1108	369
	Associate Professor	4006	2118	28	113	39	2298	16	344	86
	Professor	2100	999	12	34	12	1057	9	168	37
State Universities	Assistant Professor	20417	10754	2961	1981	427	16123	73	243	204
	Associate Professor	7086	2804	608	354	51	3817	9	52	60
	Professor	3747	1531	337	205	29	2102	8	32	39
Deemed Universities	Assistant Professor	1796	1103	327	137	41	1608	17	17	45
	Associate Professor	452	227	53	13	1	294	1	5	9
	Professor	266	150	19	2	0	171	0	4	1

Note: * Data as submitted by the Universities

** Information is i.r.o of 30 Central Universities, 80 State Universities & 14 Deemed Universities

The above chart in UGC Annual report shows the figures only in numbers and not in percentage, therefore the following **percentage wise** data is derived from the above chart.

DATA OF 30 CENTRAL UNIVERSITIES

<i>POSTS</i>	<i>Sanctioned</i>	<i>Filled</i>	<i>General</i>	<i>OBC</i>	<i>SC</i>	<i>ST</i>
Assistant Prof	7888	6051	67.95 %	13.86 %	11.58 %	6.59 %
Associate Prof	4006	2298	92.16 %	1.21 %	4.91 %	1.69 %
Professor	2100	1057	94.51 %	1.13 %	3.21 %	1.13 %

DATA OF 80 STATE UNIVERSITIES

<i>POSTS</i>	<i>Sanctioned</i>	<i>Filled</i>	<i>General</i>	<i>OBC</i>	<i>SC</i>	<i>ST</i>
Assistant Prof	20417	16123	66.69 %	18.36 %	12.28 %	2.64 %
Associate Prof	7086	3817	73.46 %	15.92 %	9.27 %	1.33 %
Professor	3747	2102	72.83 %	16.03 %	9.75 %	1.37 %

DATA OF 14 DEEMED UNIVERSITIES

<i>POSTS</i>	<i>Sanctioned</i>	<i>Filled</i>	<i>General</i>	<i>OBC</i>	<i>SC</i>	<i>ST</i>
Assistant Prof	1796	1608	68.59 %	20.33 %	8.51 %	2.54 %
Associate Prof	452	294	77.21 %	18.02 %	4.42 %	0.34 %
Professor	266	171	87.71 %	11.11 %	1.16 %	0.00 %

III - DISCRIMINATORY HIRING PRACTICES IN PRIVATE SECTOR

The entire discourse, discussion, controversy, objection and allegation on “Reservations” is limited to the continuously shrinking miniscule **2%** government employment while the remaining and expanding **8%** employment space in the organized sector private / corporate sector remains dominated by the Savarna class / relatively Forward castes and which has emphatically refused to adopt the policy of Reservations here.

Nobody is uttering a word, leave aside any talks / discussions, about this near monopolization of huge employment space, vast economic and natural resources under the tight grasps of private / corporate sector because of deliberate, systemic and institutional exclusion of SC, ST, OBC categories.



A. A detailed study in this regards was carried out by **Sukhdev Thorat** (Chairman, India Council for Social Science Research, Professor of Economics, JNU, Former Chairman of UGC) & **Paul Attewell** (Professor of Sociology, University of New York). The methodology, data and findings are given in the book **“Blocked by Caste, Economic Discrimination in Modern India”** published by Oxford University Press.

In this study advertisements from Oct 2005 to Nov 2006 for various jobs published in several National and regional newspapers were collected against which set of **three applications / resumes** having similar qualifications & work experiences in respect of three candidates with NAMES clearly indicating different

socio-religious background - **one from forward caste, second from backward caste and third from Muslim community** were prepared. However there was no explicit mention of caste or religion in the applications. The findings indicated that job applicants with backward caste name and Muslim names received less positive responses from the employers.

B. The Confederation of Indian Industry (CII) country's largest industry chamber, undertook THE FIRST EVER CASTE CENSUS of India Inc's human resources spread across **22 states** and Union territories in **2010** which revealed the proportion of Scheduled Caste and Scheduled Tribe employees in the private sector in some of the most industrialized states of the country.

STATE	INDUSTRY RANK	SC/ST IN INDUSTRY*	SC/ST IN POPULATION**	GAP
TAMIL NADU	1	17.9	20	2.1
MAHARASHTRA	2	5	19.1	14.1
ANDHRA PRADESH	3	17.1	22.8	5.7
GUJARAT	4	9	21.9	12.9
UTTAR PRADESH	5	17	21.2	4.2
PUNJAB	6	21	28.9	7.9
KARNATAKA	7	8.9	22.8	13.9
RAJASTHAN	8	14	29.8	15.8
WEST BENGAL	9	20	28.5	8.5
KERALA	10	14.2	10.94	-3.26
HARYANA	11	19	19.3	0.3
MADHYA PRADESH	12	11	35.5	24.5
DELHI	13	15	16.9	1.9
UTTARAKHAND	17	22	20.9	-1.1
HIMACHAL PRADESH	21	12	28.7	16.7
PUDUCHERRY	23	13.2	16.2	3

Industrialisation rank based on Annual Survey of Industries 2008-09
 * Share in percentage of workforce, based on CII survey
 ** Share in percentage of population, based on Census of India 2001

The above table shows that the presence of SC ST employees in the private industrial workforce is **lowest** in the states of MP, Himachal Pradesh, Rajasthan, Maharashtra, Karnataka, Gujarat, West Bengal, Punjab while somewhat comparatively **better** in the states of Tamil Nadu, Uttar Pradesh, Andhra Pradesh. The states of Kerala & Uttarakhand which are **least industrialized** show more presence of SC ST employees in their workforce.

No vacancy for SCs and STs. Will India Inc ever be inclusive

NEERAJ THAKUR

| Updated on: 27 February 2018, 19:17 IST

C. The contents of the above news on internet are produced below as it is

{ Nobody likes to be regulated; least of all the corporate sector. For close to a decade, India Inc successfully avoided taking up the responsibility of promoting diversity at the workplace. It was in 2006 when the then Prime Minister Manmohan Singh called on Confederation of Indian Industries (CII) to pro-actively adopt an affirmative agenda to "obviate the need for legislation". The industry argued against any sort of regulation. Rather, they promised an affirmative action on their own.

It has been 12 years since, but only one private-sector company among the top 100 firms listed on Bombay Stock Exchange feels the necessity to disclose the number of employees from scheduled castes and tribes on its rolls. According to a report prepared by Praxis Institute of Participatory Practices, Oxfam India and Corporate Responsibility Watch on businesses' commitment towards inclusive growth, the neglect and insensitivity towards SCs and STs is among the worst when compared with other vulnerable communities.

Tata Steel is the only private sector company that disclosed that SC/STs form more than 16% of its workforce. **Bajaj Finance Ltd** has also disclosed the number of SC/ST employees in the workforce, but only during recruitment," according to the report, 'Making Growth Inclusive'. **Godrej Consumer Products**, in its annual report, deemed fit to talk only about SC/ST employees at its Malanpur manufacturing site. At 14.4 per cent the numbers are not really near the public sector reservation of 22.5 per cent.

No other private company out of the top 100 feels the need to take cognizance of how many from the SC/ST communities they employ. **So much for a merit-based economy in the country.** In 2011 the first-ever caste-based census of India Inc's human resources revealed the proportion SC-ST employees in the private sector in some of the most industrialised states of the country was abysmally low in proportion to their population.

Many activists representing the rights of SC/ST communities have demanded implementation of caste-based quota in the private sector for years.

"Legally speaking there are no specific laws that would oblige a business space to provide for a discrimination-free working environment for its employees. However, vulnerable groups get their protection under the Prevention of the Atrocities Act (PoA) 2017. This ensures protection of persons from SC/ ST communities

against any form of discrimination including at the workplace," Karandeep Bhagat from Centre for Social Equity and Inclusion said.

WHERE WILL THE SC/STs GO ?

Post-liberalisation, the government sector has shrunk year-on-year. In 2016, Union Minister for Social Justice and Empowerment Thaawar Chand Gehlot stated in Parliament that "in government institutions, employment opportunities have declined while those in private sector have increased," adding that weaker sections should get representation and the issue should be considered seriously.

In November 2017, Bihar Chief Minister Nitish Kumar asked private companies entering a contract with his government to put aside half of the jobs created as part of the deal for backward castes. (that's not only SCs and STs though). But due to criticism from the private sector, he had to tweak the policy by giving exception to contractors.

Praxis Chief Executive Tom Thomas said lack of reporting by the private sector on affirmative actions show that they do well only on those parameters that are legally binding. You can compare the failure of affirmative action with measures to report sexual harassment cases. The former falls under National voluntary guidelines, therefore it is not binding but the latter with legal provisions introduced by the government has forced the private sector to be serious about that.

First published: 27 February 2018, 19:17 IST }

D. Is the private sector in India really private ? - After getting the preferences, subsidies, financial assistance, priority sector benefits, tax holidays, tax exemptions etc from the government can the private sector really be called private ? Also the government and its own undertakings have considerable holdings in the private companies as per the news report published in **The Economic Times 30 April 2017** with the title "How much control could the government exert in private sector entities ? The screenshots of which are given below

THE ECONOMIC TIMES | Corporate Trends

How much control could the government exert in private sector entities?

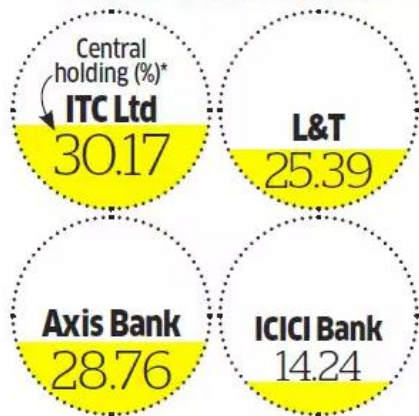
The value of the stakes of the government and its wholly owned arms in ITC, L&T and Axis Bank alone exceed Rs 1,80,000 crore.

By [Suman Layak](#), ET Bureau | Apr 30, 2017, 12:50 AM IST

Save

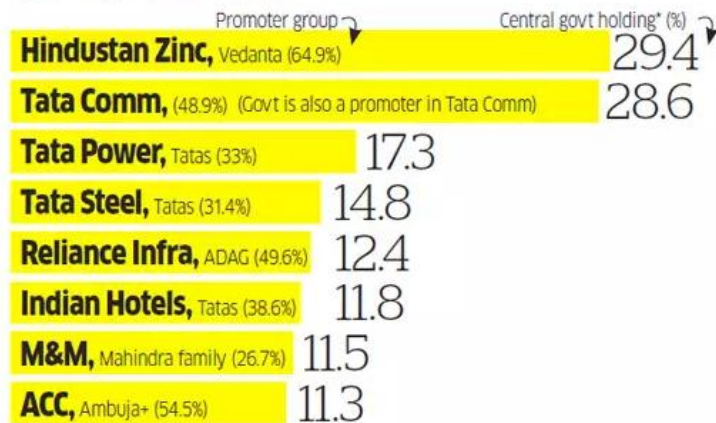
The Quasi PSUs

Independent firms where government can influence business decisions



The Elephant in the Room

Some companies have strong private promoters, but they also have a significant government holding



*shareholding of Central govt, LIC, GIC, UTI, SUUTI and the four PSU general insurance companies in BSE 200 companies

This news indicates that the central government can influence policy decisions in the above companies in its executive capacity without resorting to legislative measures and can introduce the element the affirmative action in these companies to begin with.

The necessity of protective and participative policy of Reservations becomes **intensified** for private / corporate sector because here the scope for social prejudice and discrimination is very wide and absolute in the absence of any constitutional mandate of ensuring social parity and justice **by the Non Governmental sector and other Non State entities**. The instinct and urge for restricting the ownership and control of vast economic and natural resources along with commercial and monetary gains, **ONLY** within the same social hierarchical groups overrides the noble philosophy of equitable distribution of resources.

LIST OF PRIVATISED CPSEs

1. Bharat Aluminium Company Ltd. (BALCO)
2. CMC Ltd. (Computer Management Corporation Ltd)
3. Hindustan Zinc Ltd. (HZL)
4. HTL Ltd. (Hindustan Teleprinters Ltd)
5. Indian Petrochemicals Corporation Ltd. (IPCL)
6. Jessop & Co. Ltd. (Subsidiary of BBUNL)
7. Lagan Jute Machinery Co. Ltd. (LJMC) Subsidiary of Bharat Bhari Udyog Nigam Ltd BBUNL
8. Maruti Udyog Ltd. (MUL)
9. Modern Food Industries Ltd. (MFIL)
10. Paradeep Phosphates Ltd. (PPL)
11. Videsh Sanchar Nigam Ltd. (VSNL)

LIST OF PRIVATISED HOTELS

1. Indo. Hokke Hotels Ltd. (Subsidiary of Hotel Corporation of India)
2. Punjab Hotels Ltd (Subsidiary of ITDC)- Unfinished Chandigarh Project

Hotel Units of Hotel Corporation of India

1. Centaur Hotel Mumbai Airport
2. Hotel Juhu, Mumbai

Hotel Units of India Tourism Development Corp. Ltd.

- | | |
|---------------------------|--|
| 1. Hotel Agra Ashok | 10. KABR, Kovalam |
| 2. Hotel Madurai Ashok | 11. Hotel Aurangabad Ashok |
| 3. Hotel Bodhgaya Ashok | 12. Hotel Airport Ashok, Kolkata |
| 4. Hotel Hassan Ashok | 13. Hotel Khajuraho Ashok |
| 5. TABR, Mamallapuram | 14. Hotel Varanasi Ashok |
| 6. Qutab Hotel, New Delhi | 15. Hotel Kanishka, New Delhi |
| 7. Lodhi Hotel, New Delhi | 16. Hotel Indraprastha New Delhi |
| 8. LVPH, Udaipur | 17. Hotel Ranjit |
| 9. Hotel Manali Ashok | 18. One Hotel Unit of ITDC (Given on 30 year lease-cum-management control) |

IV - Objectives of Constitutional Policy of Reservations (CPR)

- 1) The foremost objective of CPR is to provide **PROTECTION** to Backward classes from being discriminated on the basis of caste in the fields of Education, Employment & law making thus ensuring the availability of opportunities.
- 2) Reservations in Lok Sabha, State legislatures and public services are expressly meant to ensure **REPRESENTATION** of Backward classes in law making, in policy making and also in their implementation by government and administration.
- 3) CPR is also meant to **EXCLUDE** those social groups who are **over** represented in government and administration so as to reduce the scope of abuse of their monopoly.
- 4) CPR is intended to socially integrate OBC SC ST groups within each other on one hand and with rest of the Indian society on the other.
- 5) The subtle constitutional mandate of CPR to the state and society is to take steps for abolishing the vicious Varna and caste based social order.
- 6) CPR is meant for establishing **Social & Economic Democracy** by ensuring **Social Justice**.

The constitutional policy of Reservations is NOT aimed at poverty alleviation OR employment generation OR economic empowerment, this has been taken care by provisions in Directive Principles of State Policy.

V - 1st MISCONCEPTION “RESERVATIONS ARE BASED ON CASTES”

This is a very popular but false notion in the mind of the people of both the Forward castes as well as Backward Castes who consider that CASTE is the criteria for providing Reservations to OBC SC ST people. This misconception can be cleared by following contentions :-

First - Certificate of caste is issued only to Schedules Castes (SC) and Other Backward Classes (OBC), Scheduled Tribes (ST's) are NOT issued Certificates of caste, they are issued certificate of TRIBE. CASTE is the fundamental unit of **mainland** society while TRIBE is the fundamental unit of **forestland** society. Had Reservations been based on Castes, the **Scheduled Tribes (ST)** that is Adivasis, tribal brethren would NOT have been eligible for the protection of Reservations because there are no castes among the tribals and Adivasis. Their society is NOT based on caste unit, it is not a vertically stratified society. Hence they are called Scheduled “**Tribes**” not “Castes”. **Tribes are not castes, tribal groups are not caste groups**. They are “clans” in anthropological terms.

There are 4 basic differences between Caste groups and Tribal groups :-

- 1] There are **5000 plus** OBC castes and **1108 SC's** all over India, thus in total we have 6000 plus caste groups at pan India level, all these 6000 caste groups are having **unequal social status** among them, every caste group has a sentiment of being superior or inferior with respect to other caste groups. On the contrary there is no such higher or lower social status accorded to any of tribe, any clan, all the **744 tribes** in India are having equal social status and equal social recognition in their tribal society.
- 2] There is no caste / varna system / untouchability prevalent among tribal societies as it is in the Caste based societies.
- 3] In Caste based societies **women** are not regarded as equals and are deprived of their social, economic, marital, family, religious, political rights while in Tribal societies women are equally and respectfully treated and endowed with all the above mentioned rights.
- 4] The Varna / caste system is sanctified by ancient religious scriptures and is thus an essential part of religion while tribal societies are not part of any modern religion because they have their own tribal/totemic culture and civilization which is more ancient than any prevalent mainstream religions. Before 10,000 years there were no any of the existing religions but there were tribal societies living their own way of life, with their own forms of civilizations and cultures; we all modern humans at one point of time were part of these tribal cultures and civilizations.

So there is no concept of caste as such in the tribal societies but still **Scheduled Tribes (ST)** are getting the protection of Reservations even in the absence of Caste, this shows that Caste is not the criteria for providing Reservations.

Second – Had Caste been the criteria for providing Reservations then the Medical, Engineering colleges, Institutions like IIT, IIM, IISC etc would have been required to give admission to even a 12th failed student, from OBC, SC, ST category possessing only a **valid CASTE CERTIFICATE**. Or any State/Central government department would have been required to give employment to any student, from OBC, SC, ST category

possessing a valid CASTE CERTIFICATE, irrespective of his rank, marks, educational qualifications. But this does not happen which indicates that "Caste" is not the parameter for being eligible to avail the protection of Reservations. For availing Reservations along with Caste certificate the students also need to secure the prescribed qualifications, marks and rank.

Third - There are caste groups in Forward classes also in Brahmins, Kshatriyas, Vaishyas / Banias but none of them are not extended the benefits and protections of Reservations **on the basis of caste**. Had Caste been the criteria for providing Reservations these groups would also have been issued caste certificates for availing Reservations.

SO IF NOT CASTE, THAN WHAT IS THE BASIS / PRINCIPLE / CRITERIA FOR CPR ?

Having established that Reservations are NOT based on Castes, it is also necessary to put forth as to what forms the basis of Reservations ? **On what criteria / principle Reservations are based upon ?** So as to find answer to this question we need to find out what are the common factors in the 3 different social groups who are the Beneficiaries of Reservations :

- **Scheduled Castes** (who are the untouchable castes)
- **Scheduled Tribes** (who are the tribals, adivasis residing in plains, forests, hilly mountainous regions) and
- **Other Backward Classes** (who are not SC & ST but still placed in lower social hierarchy and accorded lower social status).

Article 15 (4) of the Indian Constitution mandates to make special provision for **Socially & Educationally Backward Classes (SEBC), SC, ST**. Article 16 (4) mandates to make provision for reservation in appointments & posts in public services for **Backward classes** if they are inadequately represented.

Accordingly the special provisions were designed in the form of Reservations to these SEBC, SC, ST so one may say that **Social & Educational backwardness** is the criteria for providing protection in the form of Reservations. But here a question is needed to be asked as to "what rendered some classes of the Indian society Socially Backward & Educationally Backward"?

Was this class Backward since its historical beginning ? Was this class naturally backward ? No, this backwardness was a collective consequence of some **un-natural and anti social** behavior towards this class. What was this **un-natural and anti social** behavior because of which the 80% to 85% section of the Indian society was forced to remain backward ?

It was **ID3** which rendered these classes Socially & Educationally backward. What is **ID3** ? ID3 means **I - Inequality, D1 - Discrimination, D2 - Deprivation, D3 - Denial of opportunities**. **In other words Social, Educational, economic backwardness was the overall CONSEQUENCE of ID3.**

Therefore the basis, the criteria for providing Reservations to OBC, SC, ST groups becomes **ID3** as under :-

- 1] **Inequality** - These groups were treated unequally.
- 2] **Discrimination** - These groups were discriminated to their disadvantage.
- 3] **Deprivation** - These groups were deprived of their natural and basic human rights.
- 4] **Denial of Opportunities** - These groups were denied the opportunities required for any social group to progress.

ID3 ARE THE UNIVERSAL PRINCIPLES ADOPTED WORLD WIDE

These **principles of ID3** (*Inequality, Discrimination, Deprivation, Denial of opportunities*) constitute the grounds on which the policy of reservations is based, not only in India **but in other countries also where similar policies are framed**. There are marginalized, exploited, oppressed social groups in other countries who were also rendered backward because of which protective, participative, inclusive, equalising policies / laws are devised by the respective countries. Let us test these principles of ID3 with the policies in other countries where they are differently termed as Affirmative Action, Participative Policy, Reasonable Accommodation, Positive Discrimination, Preferential Treatment, Policy Of Equalization, Proportional Representation etc.

The kind of un-natural and anti-social behavior of ID3 which was meted out to the OBC SC ST NT DNT groups of Indian society;

- the same behavior of ID3 was meted out to *Blacks, Negroes, racial minorities* in USA,
- the same behavior of ID3 was meted out to *Metis, Inuits* in Canada,
- the same behavior of ID3 was meted out to *Pardos* in Brazil,
- the same behavior of ID3 was meted out to *women, religious & racial minorities* in UK,
- the same behavior of ID3 was meted out to groups of *rural geographical areas* in France,
- the same behavior of ID3 was meted out to *women* in Norway,
- the same behavior of ID3 was meted out to *indigenous social groups* in Phillipines,
- the same behavior of ID3 was meted out to *Roma* communities (Gypsies) in Romania,
- the same behavior of ID3 was meted out to *Hui, Miao & racial minorities* in China,
- the same behavior of ID3 was meted out to *Burakumin* groups in Japan

Though the factors - race, ethnicity, skin colour, gender, religion, language, geography, caste etc varied from country to country, the response to them was the un-natural and anti-social behavior of ID3 which also varied in severity and forms. The practice of Untouchability and disabilities attached to caste arising out this ID3 in India has no equal and parallel in other countries.

In USA, the policy of affirmative action for various racial minority groups is mandated for government sector vide **Civil Rights Act 1964**. For the non government corporate sector / private sector a new federal agency as a branch of U.S. Department of Labour, named **“Equal Employment Opportunity Commission”** was created to act as a Facilitator.

Sixty five major corporations having annual revenue that exceeds 1 trillion \$ like Microsoft, Alcoa, American Express, Boeing, John Hancock, Hewlet-Packard etc have argued ***in favour of*** affirmative policies, race conscious practices in hiring, training, development to improve the racial diversity of their talent pipeline and executive ranks. This open, healthy and positive approach of American corporate sector, has led to adoption of “Voluntary Affirmative policies” by many firms. The openness of glittering Hollywood industry for example, provided space to incredible and outstanding Black actors/actress which can be usually seen in every Hollywood films.

Now what forms the basis of Affirmative Action policy in America? Whether the affirmative policies towards Blacks are based on race or skin colour, just like, what is said in India, that Reservations to OBC, SC, ST are based on castes ? Do Blacks and other minority racial groups qualify for affirmative actions only because they are Black or only because they belong to a particular race ? No, this is not the case. The Blacks and other minority racial groups in America were treated **INEQUALLY**, they were **DISCRIMINATED** to their disadvantage, they were **DEPRIVED** of their rights and they were wrongfully **DENIED** the opportunities required to progress. *The principles of ID3 are applicable here also.*

IF CASTE IS NOT THE CRITERIA THAN WHY THE NEED OF CERTIFICATE OF CASTE / TRIBE

The Certificate of Caste / Tribe is required to confirm the identity of the beneficiaries which is done after adhering to two sets of procedures :-

First -Identification, recognition & listing of SOCIAL GROUPS under respective categories SC ST OBC NT DNT

Second - Identification, confirmation & certification of INDIVIDUALS belonging to various social groups.

First - Identification recognition and listing of social groups as per Article 340, 341 & 342 and accordingly categorizing them into OBC, SC & ST. This is an elaborate procedure involving detailed ethnographical proposals from concerned state governments which are then referred to Registrar General of India, National Commission for SC / ST / BC (as the case may be), Ministry of Social Justice & Empowerment. The bill is introduced in the Parliament and after its passage in both houses the assent of President is required.

For addition of social groups under

SC category - Constitution Scheduled Caste Order 1950 is amended.

ST category - Constitution Schedule Tribe Order 1950 is amended.

OBC category - A Resolution is issued by Central Government in official Gazette.

NT, DNT category - A Resolution is issued by concerned State Government in official Gazette.

Second - After the social group is identified and listed under the appropriate category (SC ST OBC NT DNT) then comes the process of identification and certification of individuals belonging to that particular social group after thorough verification of the documentary records of parents and family members.

The **Caste certificate** for individuals belonging to SC should mention the **name** of the caste, the **serial number** of the caste in the list of that state and all the Constitution Scheduled Caste Orders from 1950 to the latest amended order.

The **Tribe certificate** for individuals belonging to ST should mention **name** of the Tribe, the **serial number** of the tribe in the list of that state and all the Constitution Scheduled Tribe Orders from 1950 to the latest amended order.

The **Caste certificate** for individuals belonging to OBC should mention **name** of the caste, the **serial number** of the caste in the list of that state and the Government resolution number with date.

The **Tribe certificate** for individuals belonging to NT & DNT should mention **name** of the tribe, the **serial number** of the tribe in the list of that state and the Government resolution number with date.

The certificate of Caste / Tribe is only for "**identifying & confirming**" a person that he / she belongs to the particular social group categorised under SC ST OBC which is notified in accordance with Article 340, 341 & 342.

<i>Social groups who were subjected to ID3</i>				
CASTE GROUPS		TRIBAL GROUPS		
<i>SC</i>	<i>OBC</i>	<i>ST</i>	<i>NT</i>	<i>DNT</i>
Untouchable caste groups	Touchable backward caste groups	Tribal groups settled in forests, hilly, mountainous regions and later shifted to plains	Nomadic Tribal groups who keep wandering from place to place	De-notified tribal groups who were erstwhile called as Criminal tribes
Under Article 341	Under Article 340	Under Article 342	Administrative categories	
<i>To be issued certificate of CASTE</i>		<i>To be issued certificate of TRIBE</i>		

WHAT HAS CONTRIBUTED TO THE BELIEF THAT RESERVATIONS ARE BASED ON CASTE

FIRST - All the students, candidates, employees, officials who wish to avail the protection of Reservation has to first obtain *either* the certificate of **Caste** *or* the certificate of **Tribe**. Certificate of **Caste** is issued to members of OBC & SC who belong to the social groups in **Caste system** while Certificate of **Tribe** is issued to members of ST, NT, DNT who belong to the social groups in **Tribal culture**.

This prerequisite, this necessity of obtaining Caste / Tribe certificates before availing the protection and benefits of Reservations and the administrative process involved in it has made the Beneficiaries of Reservations (BOR) erroneously believe that Reservations are based on Caste. Because in the absence of the Caste / Tribe certificates they cannot avail Reservations for admissions in educational institutions and appointments into public services.

SECOND - Certificate of **Caste** and Certificate of **Tribe** are two different certificates, required to be issued under two different articles of the Constitution, under two different Constitutional orders and for two different set of people, however many instances are noticed where instead of Tribe certificate, Caste Certificate is issued to the members of ST, NT, DNT categories. Because of the nomenclature "Caste" on their certificates the young students of these categories who have recently completed their school education assume that they also belong to a particular caste like others.

Here we have a grave anomalous situation where the TRIBAL people are saying that they belong to a particular XYZ CASTE. On one hand serious efforts are being made to **destroy the hierarchical notion of caste** from the minds of people and on the other hand we are introducing the hierarchical notion of caste to those tribal societies who do not have any hierarchical caste or varna system. This is a very serious

lapse. It is fundamentally wrong to issue Caste certificates to the members of Tribal societies who do not have any such hierarchical and unequal unit of caste in their social structure.

This has resulted in introduction the element of caste into the minds of tribal Adivasi people who belong to egalitarian casteless tribal societies but surprisingly no tribal / Adivasi organization has objected to this. The following are some of the examples of issuance of CASTE certificate **instead of TRIBE certificate** to the members of tribal communities – ST, NT, DNT.

Meena Tribe

Gond Tribe

Korku Tribe

SUGGESTED MODIFICATIONS IN THE EXISTING FORMAT OF CASTE / TRIBE CERTIFICATES

Caste / Tribe certificates are issued by state governments, two small changes are required only in the existing format for SC / ST which can be done at the administrative levels :-

FIRST - At present a single composite format is used for issuance of certificates to the members of SC / ST, this existing format contains all the Constitution SC orders & Constitution ST orders as amended from time to time. Instead of single composite format for both SC & ST, there can be two separate formats for SC & ST, the format for **SC** shall contain only the Constitution SC orders while the format for **ST** shall contain only the Constitution SC orders as amended from time to time.

SECOND - There are different headings given on top of the certificates in various states, like Caste Certificate / Community Certificate, this reinforces the assumption that Reservations are based on caste. Such headings should be replaced by *Certificate for Social Justice* the rest of the contents shall remain the same. So there would be separate certificates as under :-

1. Certificate for Social Justice to Scheduled castes (SC)
2. Certificate for Social Justice to Scheduled tribes (ST)
3. Certificate for Social Justice to Other Backward Classes (OBC)
4. Certificate for Social Justice to De-Notified Tribes (DNT)
5. Certificate for Social Justice to Nomadic Tribes (NT)

The proposed formats of these certificates as based on the formats suggested by UPSC on its website as on date 15/08/2019 are given at the end of this chapter.

DIFFERENTIAL SOCIO-PSYCHOLOGICAL IMPACT OF BASIS OF RESERVATION

	<i>Reservation Is Based On Caste</i>	<i>Reservation Is Based On ID3</i>
1	The Beneficiaries of Reservations (BOR) belonging to Backward classes become the center point of discussion.	The Savarna classes , social system, thought processes which have meted out the treatment of ID3 to the backward classes become the center point of discussion.
2	This basis gives the ground to Anti Reservationists to humiliate, harass and insult the students, employees, officials, officers who are Beneficiaries of Reservations (BOR).	BOR can give a strong answer that it was the anti social practice of ID3 which created backwardness leading to the necessity of Constitutional protection of Reservation.
3	This basis hides the fact that Savarna classes have meted out the treatment of ID3 to people and created backwardness in the majority section of the society.	This basis highlights the fact that Savarna classes have meted out the treatment of ID3 to people and created backwardness in the majority section of the society.
4	This basis is used to create a sense of shame, guilt, inferiority in the minds of BOR.	This basis generates a sense of rightful claim to the Constitutional reservations in the minds of BOR.
5	This basis gives rise to the argument of economic criteria of Reservations.	This basis brings out the necessity of prior removal of elements of ID3 from the society.
6	This basis links Reservations with merit & efficiency.	This basis links Reservations with Social justice.

VI - 2nd MISCONCEPTION “RESERVATIONS, RELAXATIONS AND CONCESSION ARE ONE & THE SAME”

On this front, both the parties (Pro Reservation & Anti Reservation) have made an error in failing to differentiate the **Constitutional policy** of Reservations from the **Facilitative measures** of Relaxations / Concession. It would be a surprising eye opener for both the parties to know and realise that these are TWO DIFFERENT things. **ANTI Reservationists** mostly are NOT actually against the policy of Reservations but against the RELAXATIONS / CONCESSION attached to the policy of Reservations. They are aggrieved more because of **differential treatment** given to reserved categories in the 4 criteria / parameters of selection :-

- 1 – Cut off marks.
- 2 – Age.
- 3 – Number of attempts.
- 4 – Fee structure.

But surprisingly, the Anti Reservationists instead of opposing these RELAXATIONS / CONCESSION, they tend to oppose the policy of RESERVATIONS.

Those who are availing Reservations instead of analyzing and putting forth arguments on the issue of Relaxations / Concession directly jump to defend the policy of Reservations because they feel that it is an attack on the policy of Reservations. Both parties commit this folly because of the assumption that Reservations, Relaxations, Concessions are one and the same. The following points will help in understanding the difference :-

First - The policy of Reservations is CONSTITUTIONAL in nature while the measures of Relaxations / Concession are ADMINISTRATIVE in nature.

Second - Constitutional Policy of Reservations (CPR) came into existence when Constitution of India came into effect while Relaxations were offered much later by the governments in centre and states, that too at different times.

Third - The objective of Reservations is to provide PROTECTION AGAINST DISCRIMINATION to the backward classes in the areas of education & employment while Relaxations and Concession were only to FACILITATE the backward classes so that they can avail the protection of Reservations.

Fourth - Relaxations and Concessions are merely the steps to reach, to secure Reservation / Representation.

Here also we need to understand that **Relaxations and Concessions** are also NOT one and the same, these terms are NOT to be used interchangeably, both have different and distinct meaning and have different bearing. **Relaxations are those given in AGE and in number of ATTEMPTS while Concession is that in payment of FEES, reimbursement of journey fare during interview etc.**

If a Reserved category candidate secures the required marks WITHOUT availing Relaxations in age and attempts but has availed ONLY Concessions in fees **than he will be considered from General category.** Such Reserved category candidates who are considered against General category are called "**Own merit**" candidates or **MRC** "Meritorious Reserved category" candidates. These "Own Merit" candidates / MRC candidates, though appointed against General category shall be entitled to all the benefits of Reserved category in future. But if a Reserved category candidate secures the required cut off marks by **availing Relaxations** than he will be considered from Reserved category only.

THERE ARE TWO ENTRY GATES FOR SECURING REPRESENTATION

First - Through the gate of "Open category" which is open to all candidates and for passing through this gate equal parameters / criteria in terms of cut off marks, age, attempts, fees etc are applicable equally to all candidates.

Second - Through the gate of "Reserved category" which is restricted to OBC SC ST NT DNT groups and here the parameters / criteria are somewhat relaxed.

The consequence of equating Reservations with relaxations in cut off marks, age limit, number of attempts, fee concession is that the OBC SC ST NT DNT candidates while filling up the application forms, **even though they are financially sound, within the age limit and within the attempt criteria for open category** still choose the "reserved category" box and not the "open category" box. This indicates two things,

First - They are not aware that they have two entry gates, two choices but are under belief that as they belong to OBC SC ST NT DNT social groups they have to necessarily choose the "reserved category".

Second - They underrate, under evaluate their own strength, potential, caliber and hence accordingly prepare themselves for relaxed and lower cut off marks.

This is a very serious scenario, the children and students are required to be informed and explained about the two choices they have, **if they are within the age and attempt criteria for open category they can choose "open category" and secure required cut off marks of open category.** THIS WILL CREATE SPACE FOR MORE NEEDY AND VULNERABLE CANDIDATES FROM RESERVED CATEGORY.

The age relaxations might seem beneficial at the entry level but in the later period particularly in administrative services **they work at the disadvantage for reserved category candidates :-**

Availing age relaxations > Late entry in service > Reduced service period > Inability to achieve necessary seniority > Inability to reach up to the senior most decision making positions.

This is one of the important reason as to why there are extremely few SC, ST and no OBC at Secretary levels, very less at Additional Secretary & Joint Secretary levels. The answer given by Hon'ble Minister in Lok Sabha on 10 July 2019 in response to the question regarding under representation of SC ST OBC in government jobs is reproduced below along with the position of SC ST OBC officers at Secretary, Add Secretary, Joint Secretary levels which is a part of the answer.

GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PERSONNEL & TRAINING)

LOK SABHA
UNSTARRED QUESTION NO. 2745
(TO BE ANSWERED ON 10.07.2019)

SCs/STs/OBCs UNDER-REPRESENTED IN GOVERNMENT JOBS

2745. SHRI DIBYENDU ADHIKARI:

Will the **PRIME MINISTER** be pleased to state:

- (a) whether it is a fact that SCs/STs/ OBCs are under-represented in the upper rungs of the Central Government jobs/ employment;
- (b) if so, the details thereof along with the representation of these groups in Government departments from Under Secretary to Secretary level in comparison to the general/un-reserved category, post and category-wise; and
- (c) the reasons for under-representation of these groups at the upper rungs and the steps taken by the Government to bridge the gap thereof?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE
(DR. JITENDRA SINGH)**

(a) & (b): Details of representation of officers belonging to the Scheduled Castes (SCs) and the Scheduled Tribes (STs) categories in Under Secretary and above grades (including in their equivalent grades) in Central Secretariat Service (CSS) and Central Secretariat Stenographers' Service (CSSS) and the representation of officers from SCs, STs and the Other Backward Classes (OBCs) under the Central Staffing Scheme, in various Ministries/ Departments of the Central Government, in under secretary and above grades, is at Annexure.

As there is no reservation in promotion for Other Backward Classes (OBCs), the data with regard to representation of OBCs in CSS and CSSS cadres is not maintained.

(c): The Group A posts in Central Secretariat Service (CSS) and Central Secretariat Stenographers' Service (CSSS) are filled up 100% by promotion. There is no reservation in promotion within Group A posts. The shortfall, if any, observed under some grades is due to non-availability of eligible candidates in the feeder grade.

Insofar as the appointments to the posts at the levels of Joint Secretary, Additional Secretary and Secretary to the Government of India are concerned, these are made from amongst the pool of officers empanelled to hold the posts and whose services are available to the Government of India. Many officers belonging to reserved categories often enter the service late, i.e., at higher ages, as compared to other categories and thus, a number of such officers retire from service by the time their batches are considered for empanelment to the post of Additional Secretary and Secretary. As a result, their proportionate representation in higher positions in Government of India is comparatively lower. However, from amongst the reserved category officers available for consideration, efforts are made to give them as much representation as is possible.

It is the continued endeavour of the Government to ensure higher representation of reserved category officers in terms of guidelines for empanelment, which, *inter-alia*, provide that "in case the selection process does not lead to adequate representation of categories like SC/ST, in the panel, the criteria for empanelment would be suitably relaxed to give due representation to these categories".

ANNEXURE REFERRED TO IN REPLY TO PARTS (a) AND (b) OF LOK SABHA UNSTARRED QUESTION NO. 2745 FOR ANSWER ON 10.07.2019 BY SHRI DIBYENDU ADHIKARI REGARDING SCs/STs/OBCs UNDER-REPRESENTED IN GOVERNMENT JOBS.

(A) Representation in Central Government Ministries/Departments in Under Secretary Grade and above in **Central Secretariat Service:-**

Grade	In position	UR	SC	ST
Joint Secretary (in-situ)	26	16	6 (23.08%)	4 (15.38%)
Director	124	89	24 (19.35%)	11 (8.87%)
Deputy Secretary	570	433	78 (13.68%)	59 (10.35%)
Under Secretary	1788	1360	274 (15.32%)	154 (8.61%)

(B) Representation in Central Government Ministries/Departments in Under Secretary Equivalent Grade and above in Central Secretariat **Stenographer's Service:-**

Grade	In position	UR	SC	ST
PSO/Sr. PPS	357	263	81 (22.68%)	13 (3.64%)
PPS	1135	820	296 (26.07%)	19 (1.67%)

(C) Representation in Central Government Ministries/Departments in Under Secretary Grade and above under **Central Staffing Scheme**:-**

Grade	In position	SCs	STs	OBCs*
Secretary	89	01 (1.12%)	03 (3.37%)	00 (0%)
Addl. Secretary	93	06 (6.45%)	05 (5.38%)	00 (0%)
Joint Secretary	275	13 (4.73%)	09 (3.27%)	19 (6.91%)
Director	288	31 (10.76%)	12 (4.17%)	40 (13.89%)
Deputy Secretary	79	07 (8.86%)	03 (3.80%)	21 (26.58%)
Under Secretary	02	00 (0%)	0 (0%)	00 (0%)

* The data for OBC officers is being maintained only after OBC reservation was introduced.

**In the Central Staffing Scheme officers are drawn from various services on deputation basis.

DAMAGING EFFECTS OF EQUATING RESERVATIONS WITH RELAXATIONS

Constitution does NOT mandates relaxing eligibility criteria / methodology of selection while implementing Reservation, Constitution only mandates opportunity of participation and representation to backward class of citizens so as to ensure equitable social justice. This mandate is to give effect to the values OF Justice, Liberty & Equality mentioned in the Preamble.

The facilitative measures of *Relaxations* have given rise to the debate of efficiency, merit, competency, dilution of standards etc however all the brunt of blame is wrongly put on constitutional measure of *Reservations*. It is the Relaxations and **not Reservations** which are related with efficiency, merit, competency etc. Because of Relaxations (not reservations) apprehensions and allegations of being demeritorious, incompetent are leveled against the Reserved category groups.

Supreme Court in the **Mandal Commission judgment** in 1992 has not allowed Reservations in the super speciality courses, technical posts, institutions / departments / organizations related to Medical, Engineering, Physical sciences, Mathematics, Research & Development, Defence services on the pretext that **merit cannot be compromised** stating as under

“we are of the opinion that there are certain services and positions where either on account of nature of duties attached to them or the level in the hierarchy at which they obtain, MERIT as explained herein above, ALONE COUNTS”

The same position was reiterated by Supreme Court in **2013** in the matter of appointment of faculty posts in speciality and super speciality courses in which the five judge bench headed by Chief Justice Altmarsh Kabir along with S S Nijjar, Ranjan Gogoi, M Y Iqbal & Vikramjit Sen observing as under :-

“We cannot ascribe to such a view since THE VERY CONCEPT OF RESERVATION IMPLIES MEDIOCRITY and we will have to take note of the caution indicated in Indira Sawhney’s case”

Since 1963 no reservations in promotions are allowed within the Group A, Class I civil posts in public services. The same argument is put forth by the Captains of the Corporate world for not introducing Reservations in the private sector, the same argument is given for not applying reservations in Higher Judiciary.

Thus it is the **Relaxations** because of which opportunity of participation and representation in the form of **Reservations** to backward class of citizens is being denied in the following areas :-

- 1) Super speciality courses, technical posts, institutions / departments / organizations related to Medical, Engineering, Physical sciences, Mathematics, Research & Development, Defence services
- 2) Within Group A, Class I civil posts in public services.

3) Higher Judiciary.

4) Private, non government sectors.

In all the above areas Constitutional Policy of Reservations can be made applicable **without extending any relaxations, without relaxing the eligibility criteria / selection methodology** for ensuring participation and representation backward class of citizens as per the Constitutional mandate.

VII - 3RD MISCONCEPTION “RESERVATIONS WERE ONLY FOR 10 YEARS”

It is commonly said that Reservations were meant initially for 10 years only but the same are being extended after every 10 years by the political parties so as to further their interests of vote banks. This is true only for political reservations, that is, number of seats reserved for MLA's & MP's in Legislative Assemblies & Lok Sabha. To dissect this misconception one needs to know the different types of Reservations and their constitutional provisions.

Constitution provides Reservations in 3 areas – Education, Employment, Lok Sabha and Legislative Assemblies. The Constitutional provisions are as under :-

1] Part 3 “Fundamental Rights” - Reservations in Education.

Art 15 (4) - Nothing in this article or in clause (2) of article 29 shall prevent the State from making any *special provision* for the advancement of any *socially and educationally backward classes* of citizens or for the Scheduled Castes and the Scheduled Tribes.

Art 15 (5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their ***admission to educational institutions including private educational institutions***, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.]

In none of the above provisions it is specified that Reservations in Education were only for 10 years.

2] Part 3 “Fundamental Rights” - Reservations in Employment.

Art 16 (4) – Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any *backward class* of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

Art 16 (4A) - Nothing in this article shall prevent the State from making any provision for reservation in matters of *promotion*, with *consequential seniority*, to any class or classes of posts in the services under the State in favour of the *Scheduled Castes and the Scheduled Tribes* which, in the opinion of the State, are not adequately represented in the services under the State.

Art 16 (4B) - Nothing in this article shall prevent the State from considering any *unfilled vacancies* of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year.

In none of the above provisions it is specified that Reservations in Employment were only for 10 years.

3] Part 16 “Special Provisions relating to certain classes” - Reservations in Lok Sabha.

Art 330. (1) Seats shall be reserved in the House of the People for — (a) the Scheduled Castes; (b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and (c) the Scheduled Tribes in the autonomous districts of Assam.

4] Part 16 “Special Provisions relating to certain classes” - Reservations in the Legislative Assembly of every State.

Art 332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

The provision of expiry of Reservations after 10 years from commencement of Constitution is available in Art 334, Part 16 “Special Provisions relating to certain classes” and is related only to the Reservations in Lok Sabha & Legislative Assemblies

ART 334 IS NOT APPLICABLE TO RESERVATIONS IN EDUCATION & EMPLOYMENT.

Art 334. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to— (a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and (b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to have effect on the expiration of a period of [seventy years] from the commencement of this Constitution.

IT IS THIS ARTICLE 334 WHICH WAS AMENDED FROM TIME TO TIME TO EXTEND THE POLITICAL RESERVATIONS IN LOK SABHA & LEGISLATIVE ASSEMBLIES BY EVERY TEN YEARS.

Political Reservations are NOT in the nature of fundamental rights but reservations in education and services are in the nature of fundamental rights however political reservations are never at the centre of controversy, no one raises any dispute or objection to these political reservations but every dispute, controversy, debate is invariably focused on reservation in education and public services.

It is surprising that these political reservations are extended after every 10 years even when there is NO POPULAR DEMAND from SC ST people. India has not witnessed any agitation in support of political reservations, whatever demands and agitations are launched they are in support of reservations in education and employment only.

Thus the second myth that Reservations were meant initially for 10 years is only **partially correct** to the extent of political reservations, those who link this time period with Reservations in Education and Employment are mischievously trying to confuse and mislead the people with an intention to create hatred AGAINST the SC ST OBC people in the minds of Forward castes.

So what is the time period for Reservations in Education and Employment?

Constitution has not provided any time period for these Reservations, on the contrary these Reservations have been granted the status of **“Fundamental Right”** and therefore placed in the PART 3 along with other

Fundamental Rights like Right to Life, Liberty, Freedom of Religion, Speech, Expression etc. If interpreted in congruence with other Fundamental rights it becomes clear that the right of protection of Reservations in Education and Employment will stay as long as other Fundamental Rights continue to operate.

However we ourselves do not wish that this CPR should continue for infinite period, as soon as the **causative factors of ID3 - Inequality, Discrimination, Deprivation & Denial of opportunities** (because of which this protective mechanism was required to be devised), are eliminated by way of obliterating the caste & varna system this protection will not be necessary. In other words the continuation of CPR will depend upon the inculcation of good behaviour and egalitarian outlook of Savarna class and relatively upper castes towards the lower castes folks.

There will be more clarity on this after the following two questions are probed into.

> **Why Reservations in Education and Employment were made a Fundamental Right ?**

> **Why Reservations in the nature of Fundamental rights were specified only in the areas of Education and Employment ?**

It is because the Varnashrama system and Caste based social order has not prevented, prohibited or deprived the Shudras and Ati Shudras from doing farming or other manual labour works. It was the Education, Training and Employment in decent and dignified occupations which were denied to the backward castes. The society as a whole was made to believe that Education, Training and Employment in decent and dignified occupations was not meant for the lower castes. It was enforced with all the might so that in the coming ages it became established as a social norm.

Any violation of this norm was dealt severely and at times it cost the life of the violators. We have gruesome examples of this not only in history but mythology also. This reality of Indian society was emphatically quoted by second National Commission for Backward Classes, popularly known as “**Mandal Commission**” in its report, submitted in 1980, Part I, page 58, Chapter 13, para 13.9, which is reproduced below :-

“In fact the Indian society has always operated a very rigorous scheme of Reservations, which was internalized through caste system. Eklavya lost his thumb and Shambhuk his neck for their breach of caste rules of Reservations”

So, the demand of the thumb of **Eklavya** (a tribal) by his Brahmin guru **Dronacharya** and beheading of sage **Shambhuk** (a lower caste) by King Rama was nothing but enforcement of these caste rules to prevent the Backward Castes from seeking and acquiring education. To sum up, the Bramhinal Social Order (BSO) had prescribed and enforced CAPITAL PUNISHMENT to backward castes for their attempt to seek, receive or pursue education.

Do we have any parallel of such kind in modern times ? If one is compelled to relate this with Malala Yousafzai and Taliban then he or she should do it at his own risk. Jyotirao Phule was not only expelled from

his house because he had opened school for educating the backward castes but hired assassins were sent to kill Jyotirao Phule. His wife, **Savitribai Phule**, who used to teach in that school was showered with stones, mud and dung because the socio-religious norm was being violated. And this is not thousand year's old ancient history but only 165 years of modern history.

Most important is that in India the traditions, customs, ancient practices are considered more sacrosanct than laws, so if any law is made AGAINST traditions, customs, ancient practices that are against the constitutional values, people do not tend to obey that laws and it remain only on the law books.

This is the reason why the protection in the form of Reservations in Education and Employment were made a Fundamental Right, this is the reason why the right to practice any profession, to carry on any occupation, trade or business was made a fundamental right and this is also the reason why all fundamental rights are justiciable in nature, means the Supreme Court and High court are duty bound to hear if any of these fundamental rights are violated.

Till the time there exists the tendency and behavior in the society to discriminate and deprive the backward castes from their legitimate as well as natural rights, the protection in the form of Reservations in Education and Employment are going to stay.

And a good beginning in eradicating these discriminatory tendencies can be made by creating a Constitutional mandate. The institution of UNTOUCHABILITY has been abolished by Article 17 of Indian Constitution, **however the Constitution has NOT abolished the originating cause of untouchability and caste based discrimination which is the Caste and Varnashram system.** The Parliament should abolish the fourfold Varnashram dharma and caste system and amend this article 17 by ADDING the following :-

"The Caste and Varnashram system has given rise to the world's most evil and inhuman institution of untouchability, not only this the Caste and Varnashram system also prevents the people of India from identifying themselves as CITIZENS of India because identity of caste has been ingrained in the blood, flesh and bones of Indians.

This caste identity is a big hurdle in creating and nurturing the identity of being a CITIZEN in the psyche of the people of India, which is preventing the generation of feeling of brotherhood and bond of Fraternity among the people of India, hence Caste and Varnashram system is declared as **ANTI NATIONAL**. Further the Caste and Varnashram system is against the constitutional spirit of Liberty, Equality & Justice, hence this system is also declared **ANTI CONSTITUTIONAL**. **Thus, Caste and Varnashram system being anti national and anti constitutional is therefore abolished."**

VIII - 4th MISCONCEPTION “RESERVATIONS CANNOT EXCEED 50%.”

The very strong view point is that the total percentage of Reservations should be within the limit of 50% as set down by Supreme Court and Central / State Governments cannot increase the quantum of Reservations beyond 50%. Yes this is the rule which was laid down by the Supreme court in the Indira Sawhney (Mandal) judgment but in the same judgment it was also observed that if there are **compelling extraordinary factors** this ceiling can be breached. Similar stand was taken in the Supreme Court by the Attorney General of Government of India K K Venugopal in the case challenging 10% reservation to Economically Weaker Sections (EWS) category.

GENESIS OF THIS 50% CEILING ON TOTAL RESERVATIONS IMPOSED BY THE SUPREME COURT.

It was vide single bench judgment dated **28/09/1962** in the case of **M R Balaji vs State of Mysore** which was more emphatically reiterated and elaborated vide nine bench judgment dated **16/11/1992** in the **Indira Sawhney case** popularly known as Mandal judgment.

On July 31, 1962, the State of Mysore passed order reserving **68%** of the seats in the Engineering and Medical colleges and other technical institutions for the educationally and socially backward classes and Scheduled Castes and Scheduled Tribes. While justifying the quashing of this order of State of Mysore, Supreme Court made following observations :-

{“The impugned order categorises the backward classes on the sole basis of caste which is not permitted by Art. 15 (4). The reservation of 68% seats is inconsistent with the concept of the special provision authorised by Art.15(4). **However, this Court would not attempt to lay down definitely and in an inflexible manner as to what should be the proper percentage for reservation.**”

“Reservations under Arts. 15 (4) and 16 (4) must be within reasonable limits. The interests of weaker sections of society, which are a first charge on the States and the Centre, have to be adjusted with the interests of the community as a whole. **Speaking generally and in a broad way, a special provision should be less than 50%. The actual percentage must depend upon the relevant prevailing circumstances in each case.**”

“The object of Art. 15 (4) is to advance the interests of the society as a whole by looking after the interests of the weaker elements in society. If a provision under Art. 15(4) ignores the interests of society, than it is clearly outside the scope of Art. 15 (4). It is extremely unreasonable to assume that in enacting Art. 15 (4), Parliament intended to provide that where the advancement of the backward classes or the Scheduled Castes and Tribes were concerned, the fundamental right of the citizens constituting the rest of the society were to be completely and absolutely ignored. Considerations of national interest and the interests of the community and the society as a whole have already to be kept in mind.”}

In the 22 pages judgment, the Supreme Court had no where given the rationale or basis for arriving at the figure of 50%. Immediately thereafter it makes a point that **“the actual percentage must depend upon the relevant prevailing circumstances in each case”** which also means that the percentage are linked with the

existing and verifiable circumstances and government should put forth objective, verifiable data, necessitating and substantiating the given percentage of Reservations.

Also was noted that **“interests of society as a whole”** had been given consideration over the **“interests of weaker sections”**. This is after assuming that “rest of the society” is a larger unit and “weaker sections” are **smaller** unit. Did Supreme Court made any attempt to obtain and assess the relative population figures of weaker sections / backward classes (SC ST OBC NT DNT SBC) for comparing with rest of the society ? The population statistics of Scheduled Castes & Scheduled Tribes was readily available, did Supreme Court made any attempt to obtain the data of Other Backward Classes ?

The **First Backward Classes Commission**, headed by **Kakasaheb Kalelkar**, had on **30th March 1955** (seven years before the pronouncement of the above Judgment by Supreme Court) already submitted detailed, objective and quantifiable statistics regarding the **2399 backward castes** in India, after issuing a questionnaire comprising 182 questions for government and public and after extensive touring of the entire country to collect on the spot evidence, laboring for more than two years.

Thus the population statistics of SC, ST, OBC in the country along with their socio-economic status were already available, had Supreme Court referred to this data it would have been clear that SC + ST + OBC population (weaker sections) make the larger whole of the society while the remaining sections form the subset of this larger whole. ***And by this principle, the “interests of the weaker sections” form the “interests of the larger society”.*** If “weaker sections” constitute major lot of the society, where does the logic of limiting Reservations to 50% stand ?

It was rightly held by the Supreme Court that **“the interests of weaker sections of society are a first charge on the States and the Centre”**, therefore the interests of remaining forward castes are required to be adjusted with the interests of the backward castes.

The limit of 50% set down by this single bench judgment in the case of **M R Balaji vs State of Mysore** went un-questioned and thus carried forward only to be emphatically established by the nine bench judgment dated **16/11/1992** in the **Indira Sawhney case** popularly known as Mandal judgment.

SO WHAT QUANTUM OF RESERVATIONS CAN BE CONSIDERED AS “ADEQUATE”, “JUSTIFIABLE” AND “RATIONAL” FOR THE BACKWARD CLASSES ?

The answer is that quantum which would be commensurate with the **needs / requirements** of the backward class, in other words that quantum which would be proportionate to the **population** of the backward classes. And it is precisely this constitutional principle which is guiding the existing quantum of Reservations to SC’s and ST’s at the state level as well as at Central level.

The existing quantum of Reservations to SC’s and ST’s in Central as well as State Government corresponds with the **population** of SC, ST’s at the Centre and in respective States. So if the quantum of Reservations provided to SC’s and ST’s is in proportion to their needs and requirements then the quantum of Reservations to OBC’s should also be in proportion to their needs and requirements.

If Art 15(4) and 16(4) are interpreted in the light of above contentions then it becomes clear that Indian Constitution does not limit the quantum of Reservations to any arbitrary figure of 50%, on the contrary, **it directly links the quantum of Reservations with the total needs and requirement of the backward class.**

This was also the explicit opinion of the **Second Backward Classes Commission**, headed by B P Mandal, hence popularly known as “**Mandal Commission**” who has expressed in its report, submitted in December 1980, Part I, on page 58, Chapter 13, para 13.10 and 13.11, which is reproduced below :-

Quantum and Scheme of Reservations

13.10 Scheduled Castes and Scheduled Tribes constitute 22.5% of the country's population. Accordingly, a *pro-rata* reservation of 22.5% has been made for them in all services and public sector undertakings under the Central Government. In the States also, reservation for SCs and STs is directly proportional to their population in each State.

13.11 As stated in the last Chapter (para 12.22) the population of OBCs, both Hindu and non-Hindu, is around 52% of the total population of India. Accordingly, 52% of all posts under the Central Government should be reserved for them. But this provision may go against the law laid down in a number of Supreme Court judgements wherein it has been held that the total quantum of reservation under Articles 15(4) and 16(4) of the Constitution should be below 50%. In view of this the proposed reservation for OBCs would have to be pegged at a figure which, when added to 22.5% for SCs and STs, remains below 50%. In view of this legal constraint, the Commission is obliged to recommend a reservation of 27% only, even though their population is almost twice this figure.

Even the Mandal Commission (2nd Backward Classes Commission) had accepted the principle of “**Proportional Reservations**” and therefore wished to recommend **52%** quantum of Reservations to OBC's based on their population but could not do so because of the restriction of 50% imposed by Supreme Court judgment in M R Balaji versus State of Mysore of 1962. Supreme Court emphatically reiterated this imposition of 50% cap on Reservations in the case of Indira Sawhney vs Union of India, on **16 November 1992**, which has famously gone down in the history as Mandal Commission judgment and mauled down all the hopes of **Proportional Reservations** to OBC's.

PRESENT QUANTUM OF RESERVATIONS AT CENTRAL & STATE LEVEL

At the level of **Central Government** the quantum of reservation under Articles 15(4) & 16(4) was **49.5%** till **103th** Constitutional Amendment Act was passed in **January 2019** providing **10%** Reservations to **Economically Weaker Sections (EWS)** over and above existing reservations. Thus at the center the quantum of reservation is now **59.5%**.

What about **State Governments** ? At present various states have also implemented the 10% reservations for EWS categories, hence the quantum of Reservations at State levels also have crossed the 50% mark. But **even before January 2019** following states were providing **above 50% Reservations**, there might be other states as well but details could not be dug out due to time constraints.

STATES PROVIDING ABOVE 50% RESERVATIONS BEFORE JANUARY 2019

- 1) Tamil Nadu : **Total 69%** SC - 18% , ST - 01%, BC - 20%, MBC - 30%
- 2) Maharashtra : **Total 68%** SC- 13% , ST- 07%, OBC - 19%, SBC - 02%, SEBC - 16%
VJ (DNT) - 03%, NT (B) - 2.5%, NT (C) - 3.5%, NT (D) - 02%
- 3) Chattisgarh : **Total 58%** SC- 12%, ST - 32%, BC - 14%

TAMIL NADU - The State government under Chief Minister M G Ramchandran provided **68%** Reservations way back in **1980** itself and **69% in 1989**. After the Supreme Court judgment in Mandal Commission case (Indira Sawhney case) in 1992 the TN Government under Chief Minister Jayalalita passed Reservation Act in **1993** which was later placed in the **Ninth Schedule** of the Constitution in **1994**. The issue of providing reservations over and above 50% is challenged in Supreme court and the matter is still pending.

Tamil Nadu has not yet implemented 10% Reservation for EWS.

MAHARASHTRA - The State government under Chief Minister Vilasrao Deshmukh passed Maharashtra Reservations Act 2001 providing **52%** Reservations to SC ST OBC SBC NT DNT, now after creating a separate **16%** quota of Socially & Educationally Backward class (SEBC) for Marathas in **November 2018** the total quantum of Reservations reached **68%**. The issue of Maratha reservation was challenged before Mumbai High Court which upheld the SEBC quota vide judgment dated **27 June 2019** however restricted the quantum to 12% & 13% in education & services.

Accordingly the percentage of Reservations at present stands to **65% plus 10% for EWS = 75%**. The High court judgment upholding SEBC reservation has been challenged in Supreme court and is being heard.

CHATTISGARH - The State government under Raman Singh provided **58%** Reservations in **2012** vide GAD Notification No F/13-14/2009/RC/1-3 dated 16/03/2012, the issue of providing reservations over and above 50% is challenged in WP(C) 591 OF 2012 Guru Ghasidas Sahitya Evam Sanskrit Academy vs State of Chattisgarh.

The quantum for OBC was further increased to **27%** and for SC to **13%** in **August 2019**, thus at present along with **32%** for ST **plus 10% for EWS** the total quantum is **82%**.

MADHYA PRADESH - In **July 2019** the quantum of OBC reservations was increased from 14 to 27 percent, before this 10% reservation to **EWS** was already granted. So with OBC-27%, ST-20%, SC-16%, EWS-10% the total quantum of Reservation has gone to 73% in **MP**.

RAJASTHAN - The Gujjars, already included in OBC category, were demanding ST status since 2008, later on demand for Reservations was also being made by **Forward Castes**, Rajasthan government breached the

ceiling of 50%, enacted two laws in **September 2015** providing **14% Reservations to Forward castes** by creating new category of **EBC – Economically Backward Classes** and **5% to SBC - Special Backward Classes**, taking quantum of Reservations to **68%**.

Both these bills were struck down by Rajasthan High Court, hence so as to accommodate the demand of Gujjars (that were earlier grouped under SBC) a bill was passed on **26 Oct 2017** in the Rajasthan Assembly raising the OBC quota from 21% to 26%, making a distinct group of Gujjars and four other backward communities and earmarking 05% for them. However this was also stayed by the Rajasthan High Court, hence separate category of MBC was created for Gujjars allotting 1% quota.

Thus as on today the quantum of Reservations in Rajasthan is SC-16%, ST-12%, OBC- 21%, MBC-1% = **50% plus 10% for EWS = 60% .**

There are states where **laws** are enacted by the **State Legislatures** for framing and implementing reservations while there might be states where the policy of reservations is framed and implemented through **executive / administrative orders**. This is particularly true in the case of Central Government where the rules for implementing the policy of reservations are laid down by *Department of Personnel & Training* through its **executive / administrative orders**.

The ABSENCE of a central law / legislation detailing the procedure, methodology, modalities, rules **with penal provisions** on the most important constitutional mandate of policy of Reservations which is in the nature of fundamental right is the single biggest reason for the non implementation, faulty implementation and numerous litigations in the courts in this matter.

WHAT IS NINTH SCHEDULE OF THE CONSTITUTION AND WHY IS IT SIGNIFICANT FOR RESERVATION RELATED LAWS ?

The original Constitution had only Eight Schedules, Ninth Schedule was added in 1951 through **Article 31-B** which was inserted by the First Constitutional (Amendment) Act 1951 which provided that the no law which is placed in the Ninth Schedule shall be declared void on the grounds of violation of Fundamental rights. Thus Article 31-B of the Constitution of India ensured that any law in the Ninth Schedule could not be challenged in courts.

Any law framed by Central or State Government can be placed into Ninth Schedule **but only by way of Constitutional Amendment**. The Constitutional 76th (Amendment) Act 1994 was passed by the Parliament to accommodate Tamil Nadu Government's legislation in the Ninth Schedule which provided 69 percent reservation for backward classes so as to take the legislation **out of the ambit of the judicial review**. Till now more than **284 laws / Acts** have been placed in this Schedule to shield them from the Judicial Scrutiny.

However on **11 Jan 2007** in the case of **I R Coelho Vs State of Tamil Nadu** , the Constitution bench of 9 judges delivered that any law placed under Ninth Schedule after 23 April 1973 is subject to scrutiny of Court if it violated the fundamental rights.

CONCLUSION

Though the rule of 50% was laid down by the Supreme court in the Indira Sawhney (Mandal) judgment but in the same judgment it was also observed that if there are **compelling extraordinary factors** which can justify the actions of providing Reservations beyond 50% this ceiling can be breached. This stand is taken in the Supreme Court by the Attorney General of Government of India K K Venugopal in the case challenging 10% reservation to Economically Weaker Sections (EWS) category.

So question arises as to why **Other Backward Classes**, who constitute more than half of the population of this country, are not extended **Proportional Reservations** (in tune with their needs / population) and are still deprived of their constitutional rights citing this imposition of 50% cap on total quantum of Reservations by Supreme Court ? Following extraordinary and compelling circumstances can be studied, opinion from National Commission on Backward Classes can be sought and data and statistics can be collected to justify Proportional Reservations to OBC :-

- The huge gap between the **population** of OBC and the **percentage** of reservation which is depriving almost equal number of needy OBC from their constitutional rights.
- The percentage of representation of OBC in higher education at National levels in comparison to their population.
- The percentage of representation of OBC in public services at Central levels in comparison to their population.
- Principle of Proportional Reservations is already applied to SC & ST but same principle is denied to OBC.

THE TIMES OF INDIA, PUNE
THURSDAY, AUGUST 1, 2019

TIMES NATION

Govt defends EWS quota in SC, says 50% cap not binding

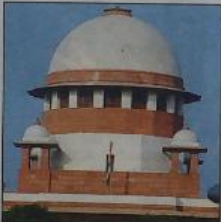
AG Tells Court Only Upper, Middle Classes Opposing Reservation

Amit Anand Choudhary
@timesgroup.com

New Delhi: Mounting a defence of the 10% quota for "poor among forwards", the Centre told the Supreme Court that a 50% cap on reservation is "fallacious" and not binding and the constitutional amendment to provide quotas in jobs and education to the economically weak is meant to uplift the poor.

Appearing before a bench of Justices S A Bobde, R Subhash Reddy and B R Gavai, attorney general K K Venugopal strongly defended the Centre's decision to provide reservation to the EWS and contended that being a welfare state, the government is constitutionally bound to take steps to provide education and improve the living condition of 200 million people below the poverty line.

"State has solemn duty to



The Centre also opposed the plea to refer the case to a Constitution bench and said there is no substantial question involved

uplift weaker sections of society. Constitution is crying for the poorest and that the poor people must be protected," the attorney general said while opposing a batch of petitions challenging the validity of the 103rd constitutional amendment. He said Parliament has

unanimously passed the EWS quota, which is not violative of the apex court's earlier verdicts on reservation. He said the apex court had never ruled on 50% cap on reservation and its verdicts allowed the government to increase reservation beyond 50% if there are sufficient reasons to justify it. He said reservation up to 68% is prevalent in Tamil Nadu and the decision was upheld by the HC and not stayed by the SC.

The bench, however, said that in the Indira Sawhney case, the apex court by majority had ruled that 50% reservation was the rule and it could be breached only in extraordinary circumstances. "But 50% is rule," the bench said. The Centre also opposed the plea to refer the case to a Constitution bench and said there is no substantial question involved, insisting that a three-judge

bench could decide the issue. The AG said it was only people belonging to upper and middle classes who were opposing EWS reservation.

Senior advocate (Rajeev Dhavan) appearing for the petitioners, told the court that the amendment was unconstitutional and the concept of backwardness on the basis of economic status was not recognised under the Constitution. He pleaded the court to refer the issue to a larger bench. Other petitioners also argued that a 50% cap is mandatory and the EWS quota breached the ceiling. The bench, after hearing both sides, reserved its order on whether the issue be referred to the Constitution bench. It also said it will hear the arguments on interim stay on implementation of EWS quota if it decides to refer the case to the Constitution bench.


UP 'Avenge powerless'

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Agra: A UP power corporation electrician disconnected the power supply of a police station after a sub-inspector posted there issued a Rs 500 ticket to him for not wearing a helmet while riding a two-wheeler on Tuesday evening. The cops at Linepar police station remained without electricity for close to four hours before senior police officials approached power corporation officials and power was restored.

"I was returning to the local power station on a motorcycle when sub-inspector Ramesh Chandra stopped me and issued a Rs 500 challan for not wearing helmet. I made him to talk to the junior engineer, who requested him to exempt me, but he did not listen to him," Srinivas told TOI.

"The SI and his associates started explaining traffic rules and in return I explained to them the rules and penalty for



Srinivas disconnection of power being issued

Firozab nail officer Dakshinam Nizam L Singh, confirmed police officers verbal reminder the police station bills. On Wednesday a rev pending and nepar police and the outside united to Rs

IX - WHO ARE OPPOSING PROPORTIONAL RESERVATIONS TO OBC AND WHY ?

This is very crucial for us to know as to who are opposing the Proportional Reservations to the Other Backward Classes (OBC) and why. Are Scheduled Castes (SC) & Scheduled Tribes (ST) opposing ? No, on the contrary it were the Constitutionalist SC, ST Ambedkarites who were instrumental in making the OBC's realize about their Constitutional rights and played prominent role during the **Mandal One** agitation beginning in the late 1980's and initial 1990's for extending Reservations to OBC's.

Again it were the Constitutionalist SC, ST Ambedkarites who stood up with OBC's during **Mandal Two** for extending Reservations to OBC's in Central Educational Institutions (Central universities, IIT's IIM's) between **2006-2007**. Are Jats, Marathas, Patels, Gujjars etc, the dominant middle castes in Haryana, Maharashtra, Gujarat, Rajasthan respectively, opposed to the Proportional Reservations for OBC's ? No, these caste groups were themselves demanding their inclusion in OBC category.

It is most of the intellectuals, opinion makers among **Socially Forward caste (SFC) groups** who are expressing their denial and discomforts to the Proportional Reservations for OBC's. It were these groups who had led violent agitations during **Mandal One** and **Mandal Two** opposing the Reservations to OBC's. Why did these groups opposed Mandal One and Mandal Two ? And why they are still not in favour of Proportional Reservations to OBC's ? The following chart shows the status of Reservations at **Central level** from 1950 to 2019

From 1950 to 1992 - FOR 42 YEARS

CLASS / CATEGORIES	POPULATION	BENEFITS
<i>Other Backward Castes</i>	52 %	00
<i>Religious Minorities</i>	8 %	00
Scheduled Castes	15 %	15 %
Scheduled Tribes	7.5 %	7.5 %
Open / General (SFC)	17.5 %	77.5 %

From 1993 to 2019 - FOR 26 YEARS

CLASS / CATEGORIES	POPULATION	BENEFITS
<i>Other Backward Castes</i>	52 %	27
<i>Religious Minorities</i>	8 %	00
Scheduled Castes	15 %	15 %
Scheduled Tribes	7.5 %	7.5 %
Open / General (SFC)	17.5 %	50.5 %

Population figures are taken from Mandal Commission report, Vol I, Chapter XII, Page no 56.
The percentage of reserved groups entered from Open/General is very meager.

Socially Forward caste (SFC) groups, who account for **17.5%** have enjoyed **77.5%** benefits in Education and Employment for **42 years**, from 1950 to 1992, before implementation of recommendations of Mandal Commission. This means Socially Forward Caste (SFC) groups have enjoyed **FIVE TIMES** more benefits as compared to their population during these 42 years.

Since the implementation of recommendations of Mandal Commission, from 1993 to 2017, the Socially Forward caste (SFC) groups enjoyed **50.5%** for **26 years**, means **THREE TIMES** more as compared to their population. This enjoyment of surplus benefits, multiple times more than their needs, **for 66 years** is the reason for the dominant presence of Forward castes in virtually every field, every sector, governmental as well as non governmental.

*It were the Socially Forward Caste (SFC) groups who lost some portion of their **surplus benefits**, due to the implementation of recommendations of Mandal Commission in 1993. It were the Socially Forward Caste (SFC) groups who lost some more portions of their **surplus benefits** when Reservations to OBC were extended in Central Educational Institutions (IIT's IIM's) in 2007. Now also these Socially Forward caste (SFC) groups are not in favour of Proportional Reservations to OBC's because it is again them, and not any other social group, who are going to lose further more portions of their enjoyments in Education and Employment.*

As they cannot publicly give above reason for their opposition, the intellectual argument extended by Socially Forward caste (SFC) groups against further expansion of Reserved category is that it may adversely affect the merit pool and discourage the meritorious candidates. Even this argument cannot hold the ground.

Can the **meritorious lot** claim right on more than required opportunities, more than necessary resources and multi fold benefits at the cost of legitimate needs and necessities of other social groups in the name of (self proclaimed) merit and competency ? British were competent people, so did it gave them the right to rule over the entire world and command the economic resources of the world ? Self proclaimed merit and competency does not provide any legitimacy to accumulate resources, particularly when they are limited, and that too by leaving majority of others in a deprived and vulnerable state.

In a civilized and democratic society, merit can be good and benevolent only if it is not self centered, only if it understands and respects the socio-economic necessities of others.

COMPENSATORY REMEDIES FOR OBC's

In the past history the *earlier generations* of Socially forward caste (SFC) groups, Savarnas have meted out treatment of ID3 to the lower caste groups, now when the Constitution of India has provided protections & safeguards to the lower caste groups against this ID3, the *present generations* of forward caste groups are again humiliating and insulting the lower caste groups for the reason of these Constitutional protections & safeguards.

The Anti Reservationists are raising their OWN issues, concerns and *Beneficiaries of Reservations* (BOR) are reacting, in the same tone. They have scripted, directed and are screening their own "feature film" about Reservations, but why are *Beneficiaries of Reservations* (BOR) watching it ? By saying **Aarakshan Hatao, Sanvidhan Hatao** they are adopting socio -psychological means to create a general sense of fear and insecurity in the minds of *Beneficiaries of Reservations* (BOR).

The coming together of *Beneficiaries of Reservations* (BOR) in the form of "Aarakshan Bachao" "Sanvidhan Bachao" displays Defensive and Scared mental state. Defensive approach generates NEGATIVITY and indicates DEMORALISED mental state. If Anti Reservationists have launched Arakshan **HATAO** campaign, the response should NOT be Arakshan **BACHAO** campaign, on the contrary there should be Arakshan **BADHAO** campaign. Not "Sanvidhan Bachao" but "Sanvidhan Majboot Karo" initiative.

Such ideologically and intellectually offensive approach generates Positivity and indicates highly motivated mental state. Defensive approach will only MAINTAIN existing constitutional rights while Offensive approach will INCREASE and strengthen our existing rights.

The OBC people were / are made to believe that it was because of reservations to SC & ST groups that they have remained backward, uneducated, unemployed and in an impoverished state, therefore following need to be clarified :-

1. The 13% to 17% Forward Caste groups (not SC ST groups) have enjoyed **78.5%** benefits in education and employment from 1950 to 1992 for 42 years and **50.5%** from 1992 till 2017 for 25 years. Thus they have enriched themselves for **67 years (42+25)** ENORMOUSLY OVER AND ABOVE THEIR POPULATION / REQUIREMENTS.
2. OBC were deprived of their constitutional rights for **42 years**, so as to **compensate** for their material loss and social-economic sufferings for the next 42 years OBC should be provided with **78%** Reservations in education and employment.
3. Independent **Ministry & Department for OBC welfare** should be established for devising and funding welfare policies for the OBC.
4. Separate **OBC sub plan**, separate budgeting to be started to sustain the welfare policies for OBC.
5. On the lines of SC ST (Prevention of Atrocities) Act a new "**OBC (Prevention of Discrimination) Act**" should be framed under which the discrimination of OBC on the grounds of **caste** in the fields of **Education and Employment** will be a cognizable offence.
6. Every State government as well as Central government may pass a law providing **Proportional Reservations** to OBC after justifying the extraordinary circumstances on the basis of demographics and place it in the IX Schedule of Constitution.

X - SOCIAL BACKWARDNESS & ECONOMIC BACKWARDNESS.

The un-natural & anti-social treatment of ID3 is based on **social status** and not on economic status, the **Other Backward Classes (OBC)** were deprived of their educational rights, economic rights, occupational rights and were treated as slave class for upper three varnas - Brahmin, Kshatriyas & Vaishyas and degraded as SHUDRA Varna.

Scheduled castes (SC) along with all the above mentioned disabilities of Shudras, were further dehumanized as Untouchables, Unseeables, Unaudibles and Unapproachables.

Scheduled tribes (ST) i.e. tribals, adivasis remained cut off from the urban/rural social life and remained in their hunting, food gathering stages confined to forests.

OBC SC ST people were/are not discriminated because they were/are poor but because of their **lower social status** and the CASTE still, unfortunately, determines the social status of an individual in India. The social status decides the social behavior, not the educational or economic status.

- The POOR of SC ST BC also face discrimination and RICH of SC ST BC also face discrimination.
- Those staying in RURAL areas are also discriminated as well as those in URBAN areas.
- Those who are EDUCATED are also discriminated as well as those who are illiterate.
- Those who are EMPLOYED are also discriminated as well as those who are JOBLESS.
- Those who are employed in GOVT sector are also discriminated as well as those in PRIVATE sector.
- The bureaucrats, judges, ministers as well as those holding constitutional posts are also discriminated and common man from SC ST BC is also subjected to discrimination.

This becomes more clear if we appreciate the various dimensions & differences between Social Backwardness and Economic Backwardness.

SOCIAL BACKWARDNESS VERSUS ECONOMICAL BACKWARDNESS.

In India Social backwardness is the CAUSE of Educational backwardness, Economic backwardness and economic deprivation. The Constitution makers, the members of Constituent Assembly believed that once social backwardness is removed there will be no hindrance for economic progress. The poverty and deprivation in SC ST OBC categories is the result of discrimination and inequality meted out to Backward Classes. ***Reservations are not any poverty eradication programme OR employment generation scheme OR economic empowerment policy.***

Following is comparative position between Social Backwardness & Economic Backwardness :-

N O	SOCIAL BACKWARDNESS / SOCIAL PROTECTION	ECONOMIC BACKWARDNESS / ECONOMIC PROTECTION
1	Provisions in Fundamental Rights – Part 3 of Constitution.	Provisions in Directive Principles of State policy – Part 4 of Constitution
2	Art 15 (4) (5) and 16 (4) (4A) (4B).	Art 38, 39, 41, 42, 43, 46.
3	For Social protection of SC (Untouchable castes) ST (Adivasis) OBC, VJ, NT, DNT (Shudra castes) from discrimination in education & services.	For removing poverty, for economic empowerment & for providing employment to POOR among ALL castes & classes.
4	For establishing SOCIAL equality by removing SOCIAL backwardness.	For establishing ECONOMIC equality by removing ECONOMIC backwardness.
5	Social backwardness in OBC, SC, ST categories was the result of discrimination, unequal treatment and denial of opportunities.	Economic backwardness among OBC, SC, ST categories is due to social backwardness while economic backwardness among Forward castes is NOT due to social backwardness but because of their individual reasons.
6	Social backwardness among OBC, SC, ST categories is a GROUP phenomenon hence entire groups (not individuals) are provided protection of Reservations.	Economic backwardness among OBC, SC, ST categories is also a GROUP phenomenon but Economic backwardness among Forward castes is an individual phenomenon.
7	Poor among Forward castes are constitutionally NOT eligible for Reservations because they were not subjected to discrimination, unequal treatment and denial of opportunities.	Poor among Forward castes are constitutionally eligible for enrolling themselves in all the schemes / programmes for economic empowerment, for employment generation and for removing poverty.
8	Poor among OBC, SC, ST who are in a crippled financial position and therefore could not avail the benefits of Reservations in Education/Services ENROLL themselves in all the schemes / programmes for economic empowerment, for employment generation and for removing poverty.	Poor among Forward Castes who are in a crippled financial position are eligible but DO NOT ENROLL themselves in the schemes programmes for economic empowerment, for employment generation and for removing poverty but instead are demanding Reservations.

POVERTY IN BACKWARD CASTES VIS A VIS POVERTY IN FORWARD CASTES

It is a usual and very casual opinion held by the proponents of Economic criteria that poor in backward class should not be differentiated from poor in forward class as both require help / assistance from the government and therefore poor from forward castes should also be extended Reservations. The origin of this argument is basically from a flawed and erroneous assumption that Reservations are meant for removing poverty, for economic empowerment & for providing employment **which is not the case** as already discussed above. Also the aspects of poverty in both classes need to be discussed objectively.

1 - Extent of Poverty among Backward castes and Forward castes.

Neither the poor from Backward castes nor the poor from forward castes are in a position to avail the benefits of Reservations because of the expenses required to be incurred in higher education. The **poor from backward castes**, in both rural and urban areas, are UNABLE to ensure even primary education or till 10th and 12th standard of their kids? How much is the number of such people ? It is a considerably **large** number. **Do Reservations have any meaning for such people ?**

Now take the case of **poor in forward castes**, how much is the number of poor from forward castes, in both rural and urban areas, who are UNABLE to ensure even primary education of their kids or till 10th and 12th standard ? It's a very very **thin** number. The exact figures and numbers would have been provided if the details of socio economic caste census were released. One can arrive at the figure of the number of poor in forward and backward castes by checking the number of BPL cards issued to them by the Collectorate offices at district levels.

2 - Severity / Intensity of Poverty among Backward castes and Forward castes.

Who are the farmers who are committing suicide ?

Who are the children dying due to lack of proper medical care in government hospitals ?

Who are the children dying because of sheer starvation and malnourishment ?

Who are the children who are forced to do acrobatics on streets for living ?

Who are the people who live in slums, huts, shanties ?

Who are the men who do the brutal manual labour work on construction sites, mines, railway tracks?

Who are the rickshaw pullers?

Who are those engaged in sweeping & scavenging works ?

Who are the women forced & humiliated to defecate in open spaces ?

The answers to the above questions are sufficient to differentiate the severity / intensity of poverty among Backward castes and Forward castes.

3 - Causative factors for poverty among Backward castes and Forward castes.

The reason and nature of poverty in backward castes is different from that in forward castes, the **reason of poverty** in backward castes is because of the historical treatment of ID3. What could be the reason of poverty in forward castes when they themselves had monopoly over land, economic resources and occupational avenues ? What could be the reason of poverty in forward castes when they were at the top of social hierarchy ? What could be the reason of poverty in forward castes when the State and political

power protected and maintained their privileges by upholding the rules of Varnashrama Dharma and Caste system ?

If a social group who had enjoyed control over the social order, economic resources and political power for thousands of years but still lands in poverty then the reasons might be one of the following :-

- Misutilisation / wastage of resources.
- Inability to generate alternate resources.
- Lack of equitable sharing and distribution of resources among themselves during needs.

4 - Qualitative difference between poverty among Backward castes and Forward castes.

The poor among backward castes along with disabilities arising out of poverty also suffer humiliation of caste based discrimination while this is not the case with poor among forward castes who can still have the honour and dignity of belonging to a superior caste. The poverty in backward castes is a **GROUP** phenomenon where almost entire caste groups are in an impoverished state while poverty in forward castes is an **INDIVIDUAL** phenomenon hence only handful of individuals have landed themselves in poverty.

JOINT STUDY REPORT BY SAVITRIBAI PHULE PUNE UNIVERSITY (SPPU), JAWAHARLAL NEHRU UNIVERSITY (JNU) AND INDIAN INSTITUTE OF DALIT STUDIES - As per two year joint study report titled "Wealth ownership & Inequality in India: A socio-religious analysis" 22.3 percent of upper castes own 41 percent of country's total wealth whereas 7.8 percent Schedules Tribes own 3.7 percent, the lowest wealth share in the country.

TWO-YEAR-LONG STUDY BY SPPU, OTHER ORGANISATIONS

Upper caste Hindus richest in India, own 41% of total assets; STs own 3.7%, says study on wealth distribution

ANJALI MARAR
PUNE, FEBRUARY 13

CASTE CONTINUES to play a significant role in the educational and professional choices available to an individual, and the resultant income and assets, reveals a two-year-long study jointly undertaken by the Savitribai Phule Pune University (SPPU), Jawaharlal Nehru University (JNU) and Indian Institute of Dalit Studies. Only 22.3 per cent of the country's higher caste Hindus own 41 per cent of the country's total wealth and form the richest group, whereas 7.8 per cent of Hindu Scheduled Tribes own only 3.7 per cent, or the lowest wealth share of the country's assets, finds the study.

The top 1 per cent (in terms of wealth) of the total households own 25 per cent of the country's total assets, while the top 5 per cent owned 46 per cent of it. In stark contrast, the bottom 40 per cent households were found to own just 3.4 per cent of the country's total assets, which was Rs 3,61,919 billion, as per the All India Debt and Investment Survey conducted by the National Sample Survey Office in 2013.

This in-depth look into the division of assets on the basis of socio-religious grounds, at a time when the Union government has announced 10 per cent reservation for the Economically Weaker Section (EWS) in both education and jobs beyond caste lines, was stated in a study titled, *Wealth Ownership and Inequality in India: A socio-religious analysis*. It was conducted from 2015 to 2017, and the study's findings were revealed recently.

"Caste still continues to determine the level of education, nature of profession and resultant income and assets that an individual will own in this country. Ownership of assets, be it in the form of land or building, was found to be higher among Hindu High Castes (HHCs) than any other caste in India," Nitin Tagade, lead author and assistant professor at the Department of Economics, SPPU, told *The Indian Express*.

The study covered 1,10,800 households, 56 per cent of them in urban areas and the rest in rural areas, across 20 Indian states. The population was classified into multiple groups — Hindu Scheduled Class (HSC), Hindu Scheduled Tribes (HST), Hindu Scheduled Castes (HSCs), Hindu Scheduled Tribes (HSTs), Non-Hindu Scheduled Castes (NHSCs), Non-Hindu Scheduled Tribes (NHSTs), Hindu Other Backward Classes (HOBBCs), Hindu High Castes (HHCs), Muslim Other Backward Classes (MOBCs), Muslim High Castes (MHCs) and Rest.

The researchers have also found a marked divide in wealth distribution depending on whether members of a particular caste lived in urban or rural areas. For example, 34.9 per cent wealth

education was available only to the Hindu high caste population, and this trend has remained largely unchanged. "Even today, caste plays an important role and the caste hierarchy downward, within Hindus, was found to be poorer. Inequality and discrimination is still faced by populations belonging to the lower castes. This is true for purchase of property or undertaking any business, both of which continue to be ruled by the upper castes," said Thorat.

The study also highlighted that five states — Maharashtra, Uttar Pradesh, Kerala, Tamil Nadu and Haryana — owned about 50 per cent of the country's total wealth. The wealthiest states, according to the study, included Maharashtra (with 17 per cent of the country's wealth share), UP (11.6%) and Kerala (7.4%), whereas the poorest states were Odisha (1%), Jharkhand (1%), Himachal Pradesh (1%) and Uttarakhand (0.9%).

Similar to the national trends, the top 10 per cent population in Maharashtra was found to own 50 per cent of the state's assets, while the bottom 1 per cent population didn't even own 1 per cent of the asset share of the state. The highest valued assets was found concentrated between land and building.

WEALTH OWNERSHIP AND INEQUALITY IN INDIA: A SOCIO-RELIGIOUS ANALYSIS

THE STUDY COVERED
1,10,800 households in 20 Indian states

Caste	Asset share
Hindu High Caste	41
Hindu OBC	30.7
Others	9
Muslim	8
Hindu SC	7.6
Hindu ST	3.7

22.3% higher caste Hindus own 41 per cent of total wealth

7.8% of Hindu STs own 3.7 per cent of total wealth

TOP 1 PER CENT of households own 25% of total assets
TOP 5 PER CENT own 46 per cent of total assets
BOTTOM 40 PER CENT own 3.4 per cent of total assets

WEALTHIEST STATES
Maharashtra, UP and Kerala

POOREST STATES
Odisha, Jharkhand, Himachal Pradesh and Uttarakhand

"Caste still continues to determine the level of education, nature of profession and resultant income and assets that an individual will own in this country."

NITIN TAGADE, LEAD AUTHOR AND ASSISTANT PROFESSOR AT THE DEPARTMENT OF ECONOMICS, SPPU.

Hindu High Castes (HHCs), Muslim Other Backward Classes (MOBCs), Muslim High Castes (MHCs) and Rest.

The researchers have also found a marked divide in wealth distribution depending on whether members of a particular caste lived in urban or rural areas. For example, 34.9 per cent wealth

SO WHAT THESE POOR PEOPLE FROM **BACKWARD** CASTES DO ?

They enroll themselves in different schemes / programmes of State as well as Central government for employment, for their economic empowerment and for removing poverty. They provide labour for digging wells, for constructing roads and canals under MNREGA for example. Their immediate requirement is survival.

SO WHAT SHOULD THESE POOR PEOPLE FROM **FORWARD** CASTES DO ?

They should also enroll themselves in different schemes / programmes of State as well as Central government for employment, for their economic empowerment and for removing poverty. They should also provide labour for digging wells, for constructing roads and canals under MNREGA for example.

Do we see any Socially forward caste (SFC) people working under MNREGA or any other such scheme ? **No, why ?** Because the severity and intensity of poverty is not to that extent mandating manual labour. **So how can it be said that poor in backward castes stand on one and the same footing as that of poor in forward castes ?**

There was also a study survey report released in Jan 2018 by International rights group OXFAM founded in 1942 at Oxford, England having headquarters in Nairobi, Kenya according to which only **1% Indians own 73% of total wealth and the wealth of half of India's population rose only by 1%.**

THE ECONOMIC TIMES

Business News > News > Politics and Nation

India's richest 1% corner 73% of wealth generation: Survey

BY PTI | UPDATED JAN 23, 2018, 07.30 AM IST

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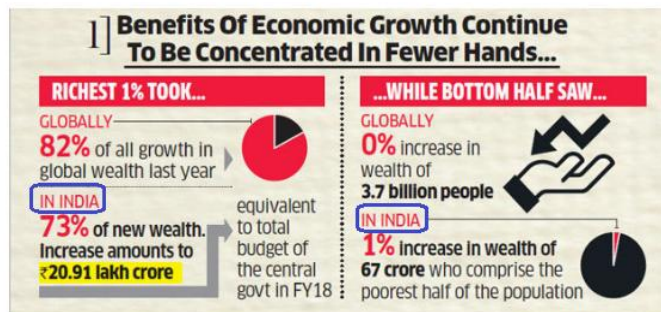
DAVOS: The richest 1 per cent in India cornered 73 per cent of the wealth generated in the country last year, a new survey showed today, presenting a worrying picture of rising income inequality.

Besides, 67 crore Indians comprising the population's poorest half saw their wealth rise by just 1 per cent, as per the survey released by the international rights group Oxfam hours before the start of the annual congregation of the rich and powerful from across the world in this resort town.



India's Richest 1% Bag 73% of Wealth Created Last Year: Oxfam

Worldwide, 82% of the wealth created last year went to the richest 1% people, while the poorest half of humanity got nothing, according to a new Oxfam report 'Reward Work, Not Wealth'. In India, the richest 1% cornered nearly three quarters of the new wealth, while 67 crore Indians, or the poorest half of the population, saw just 1% increase in their wealth. Here's a snapshot



XI - 10% RESERVATION TO ECONOMICALLY WEAKER SECTIONS (EWS)

Prime Minister **P V Narasimha Rao** whose government in **1991** had issued a notification providing 10 per cent reservation for Economically Backward Classes (EBC) *but* was struck down by the Supreme Court. The same is compared with the 10% reservation to Economically Weaker Section (EWS) given in January 2019.

	1991 में दिया गया आर्थिक आरक्षण	2019 में दिया गया आर्थिक आरक्षण
1	प्रशासकीय कार्यालय ज्ञापन (Office Memorandum) के जरिये	संविधान संशोधन (Constitutional Amendment) के जरिये
2	बिना संसद की मंजूरी लिए	संसद की मंजूरी लेकर
3	कोई संवैधानिक आधार नहीं	संवैधानिक संशोधन द्वारा आर्टिकल 15(6), 16(6) डालकर संवैधानिक आधार तैयार किया गया
4	केवल सरकारी सेवाओं (Public services) में आरक्षण	सरकारी सेवाओं तथा उच्च शिक्षा में आरक्षण
5	आर्थिक रूप से "पिछड़े" वर्गों के लिए - For Economically Backward class (EBC)	आर्थिक रूप से "कमजोर" वर्गों के लिए For Economically Weaker sections (EWS)

1991 में दिए गए आर्थिक आरक्षण की तुलना 2019 में दिए गए आर्थिक आरक्षण से करने वाले चार्ट को पढ़कर यह समझ में आ जाता है कि जो कमियां, जो खामियां तब रह गयी थी इस बार उन्हें पूरा कर दिया गया है। सुप्रीम कोर्ट की कसौटी में यह 10% आरक्षण खरा उतरे इसकी पुख्ता तैयारी की गई है। **103** वे अमेंडमेंट के जरिये दो नए आर्टिकल्स संविधान में डाले गए हैं, **15(6)** - जो Economically Weaker sections (EWS) को उच्च शिक्षा में आरक्षण देता है, **16(6)** - जो EWS को राज्य की सेवा (Public services) में आरक्षण देता है।

सुप्रीम कोर्ट इन दोनों आर्टिकल्स की संवैधानिक वैधता दो बातों पर जांचेगा, पहली - क्या यह संविधान के मूल तत्वों का उल्लंघन करते हैं और दूसरी - क्या यह मंडल जजमेंट में बनाए गए नियमों का उल्लंघन करते हैं।

सुप्रीम कोर्ट सामाजिक पिछड़ापन और आर्थिक पिछड़ापन इनका तुलनात्मक परीक्षण करते हुए, मूलभूत अधिकार और राज्य के मार्गदर्शक तत्व इनका तुलनात्मक परीक्षण करते हुए, यह बोल सकता है कि आरक्षण यह अति विशेष प्रावधान है जिसका प्रमुख उद्देश्य भेदभाव से संरक्षित करना, प्रतिनिधित्व का अवसर देना, समानता प्रस्थापित करना है और जिसका इस्तेमाल उन वर्गों के लिए नहीं किया जा सकता जिनके साथ कोई भी भेदभाव, शोषण का व्यवहार नहीं हुआ है। इस आधार पर 103 वा अमेंडमेंट असंवैधानिक घोषित कर सकता है।

या सुप्रीम कोर्ट आर्टिकल **15(6)** को याने उच्च शिक्षा में दिए गए आरक्षण को दो कारणों की वजह से "**संवैधानिक**" मान सकता है, **पहला** - इसमें पर्याप्त प्रतिनिधित्व का तत्व लागू नहीं होता, वह केवल राज्य की सेवा (Public services) में आरक्षण देने के लिए लागू होता है। **दूसरा** - 50% की सीमा यह केवल SC ST OBC के आरक्षण के लिए

लागू होती है, EWS के आरक्षण के लिए नहीं.

सुप्रीम कोर्ट आर्टिकल 16(6) को दो कारणों की वजह से "अ-संवैधानिक" मान सकता है , **पहला** - राज्य की सेवा (Public services) में EWS का पर्याप्त से ज्यादा प्रतिनिधित्व, **दूसरा** - जिन EWS को आरक्षण दिया जा रहा है उनकी पहचान का अभाव.

	सामाजिक और शैक्षिक पिछड़ा वर्ग Socially & Educationally Backward Class (SEBC)	आर्थिक रूप से वर्ग "कमजोर" Economically Weaker sections (EWS)
1	यह संज्ञा संविधान के आर्टिकल १५ और १६ में है	यह संज्ञा संविधान के आर्टिकल ४६ में है
2	इस वर्ग के पिछड़े होने का कारण इसके साथ किया गया ID3 (Inequality, Discrimination, Deprivation, Denial) का व्यवहार है	इस वर्ग के साथ कोई भी ID3 का व्यवहार नहीं किया गया है, इसके आर्थिक रूप से होने "कमजोर" है "गरीबी" का कारण
3	यह पिछड़ापन ऐतिहासिक प्राचीन काल से है	यह गरीबी केवल कुछ साल पश्चात से है
4	यह पिछड़ापन सामाजिक और धार्मिक व्यवस्था से निगडित था	यह पिछड़ापन देश की आर्थिक - औद्योगिक - शिक्षा - रोजगार नीतियों की विफलता से निगडित है
5	यह पुरे समूह से निगडित पिछड़ापन है - Group phenomenon	यह समूह के कुछ लोगो से निगडित व्यक्तिगत पिछड़ापन है - Individual phenomenon
6	निम्न, निचला सामाजिक स्थान, प्रतिष्ठा, दर्जा	सम्मानजनक उच्च सामाजिक स्थान, प्रतिष्ठा, दर्जा
7	राज्य की सेवाओं और उच्च शिक्षा में बेहद कम प्रतिनिधित्व	राज्य की सेवाओं और उच्च शिक्षा में बेहद ज्यादा प्रतिनिधित्व
8	प्राइवेट क्षेत्र में बेहद कम भागीदारी और प्रतिनिधित्व	प्राइवेट क्षेत्र में बेहद ज्यादा भागीदारी और प्रतिनिधित्व
9	न्यायिक संस्थाओं में कम प्रतिनिधित्व	न्यायिक संस्थाओं में ज्यादा प्रतिनिधित्व
10	प्रचार माध्यमों की ownership और भागीदारी का अभाव	प्रचार माध्यमों के मालिक, संपादक, रिपोर्टर, एंकर

इस 103 वे अमेंडमेंट के विरोध में सुप्रीम कोर्ट में "यूथ फॉर इक्वलिटी" इस आरक्षण विरोधी संगठन ने याचिका डाली है उसमें केवल आरक्षण के आर्थिक आधार पर आपत्ति नहीं उठायी है **बल्कि यह आर्थिक आधार केवल जनरल कटेगरी को क्यों लगाया गया है, SC ST OBC को क्यों नहीं लगाया है यह आपत्ति उठायी गयी है.** "यूथ फॉर इक्वलिटी" यह वही संगठन है जिसने OBC को 27% उच्च शिक्षा में आरक्षण का विरोध किया था.

EWS वर्ग को आरक्षण देते समय दो बातों का ध्यान रखा गया :-

- १) एब्स वर्ग के लिए ज्यादा सीटें बढ़ाई गयी.
- २) एब्स वर्ग को आयु में छूट का कोई उल्लेख नहीं है

EWS वर्ग को असली फायदा आरक्षित सीटों की तुलना में **ओपन की सीटें बढ़ाने में है** जो किया गया था 2008 में जब OBC को 27% शिक्षा में आरक्षण दिया गया और उस वजह से जितनी खुली सीटें घट गई थी उनको बढ़ाया गया था.



Home > Nation

Economically Weaker Sections quota to add 2,388 seats at IITs, 620 at IIMs in 2019

In percentage terms, IITs will get about 9 per cent more seats, while IIMs will get nearly 12 per cent more. At IITs, the additional seats will be across B Tech, M. Sc and PhD programmes.

NIE

कोटे की सीटों में इजाफा: मप्र के शासकीय होम्योपैथी कॉलेज में बढ़ी 26 सीटें, छात्रों को फायदा

आयुष कॉलेजों में भी बढ़ी ईडब्ल्यूएस सीटें

पत्रिका न्यूज नेटवर्क
patrika.com

भोपाल: मेडिकल के बाद अब आयुष कॉलेजों में भी ईडब्ल्यूएस कोटे की सीटों में इजाफा शुरू हो गया है। आयुष मंत्रालय ने सोमवार को मप्र समेत देशभर के 63 शासकीय आयुष कॉलेजों की 1050 सीटें बढ़ाने के आदेश जारी किए। यह सीटें इसी सत्र की ऑल इण्डिया आयुष व स्टेट काउंसिलिंग में शामिल होंगी। प्रदेश में फिलहाल राजधानी के होम्योपैथी कॉलेजों में ही सीटों का इजाफा हुआ है। माना जा रहा है कि जल्द ही अन्य कॉलेजों में सीटें बढ़ जाएंगी। ये सीटें केंद्र द्वारा आर्थिक रूप से कमजोर छात्रों के लिए 10% आरक्षण के अंतर्गत दी जाएंगी। भोपाल के शासकीय होम्योपैथी कॉलेज में 100 सीटें थीं, जिन्हें बढ़ाकर 125 किया है।

चवॉइस फिलिंग: 7214 छात्र हुए शामिल

चिकित्सा शिक्षा विभाग से मिली जानकारी के मुताबिक सोमवार तक नीट यूजी काउंसिलिंग में 7211 छात्रों ने चवॉइस फिलिंग की थी। छात्र नौ जुलाई रात 12 बजे तक चवॉइस फिलिंग कर सकते हैं। मालूम हो कि बीते साल करीब 13 हजार छात्रों ने रजिस्ट्रेशन कराया था, जिसमें से सिर्फ 8 हजार छात्रों ने ही चवॉइस फिलिंग की थी।

देश के 700 से ज्यादा आयुष कॉलेजों में से 63 शासकीय आयुष कॉलेजों की 4168 सीटें बढ़ाकर 5218 किया है।

डॉ. राकेश पांडे, आयुष डीप्टर्स एसो.

भोपाल में 100 से 125

भोपाल के शा. होम्योपैथी कॉलेज में 100 सीटें थीं, जिन्हें 125 किया है। नेशनल आयुर्वेद इंस्टीट्यूट, जयपुर में सीटें 100 से 125, युनिवर्सिटी कॉलेज ऑफ जोधपुर आयुर्वेद में 100 से 125, आयुर्वेद कॉलेज उदयपुर में 100 से 125, युनिवर्सिटी कॉलेज ऑफ बुनानी टोंक में 50 से 63 सीटें की हैं। आरबीटीएस शा. होम्योपैथी कॉलेज मुजफ्फरपुर में 60 से 75 सीटें की हैं। नेशनल इंस्टीट्यूट ऑफ होम्योपैथी कोलकाता में 93 से 116 किया है।

NOTES PRO CAMERA

XII - THE CONCEPT OF CREAMY LAYER.

The term creamy layer was first used by **Justice Krishna Iyer** of Supreme Court in **1976** in the case of State of Kerala vs N M Thomas stating that benefits of Reservations are snatched away by creamy layer of the backward classes. The conceptualisation and application of the principle of creamy layer by Supreme Court in 1992 Mandal judgment was only with reference to OBC. Two Honorable judges defined creamy layer as under :-

Justice P B Sawant - Creamy layer means those individuals having the capacity to compete with forward castes.

Justice Jeevan Reddy - The basis of exclusion of the creamy layer must not be merely economic, unless economic advancement is so high that it necessarily means social advancement.

The chief argument against the concept of creamy layer is that ***it links and equates elevated economic / financial status of individuals with cessation of inequal, discriminatory social behaviour towards backward classes*** which is clearly not the case. By doing so these individuals are being denied their constitutional right of protection against **ID3** on the assumption that these individuals are rich hence they do not need protection against **ID3**.

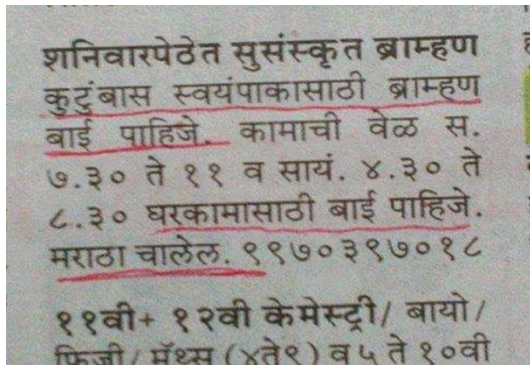
It is true that by virtue of their elevated financial status they have the capacity to compete with forward castes, so at the most they should be rendered ineligible to the facilitative measures of all forms of monetary concessions and relaxations in age and number of attempts. But snatching away the protection against discrimination from them means giving sovereign guarantee of the good and fair behavior of the society towards them.

Is there any such law, mechanism framed by the Government, Parliament or Judiciary that will **protect this creamy layer** from being discriminated on the basis of Caste in future ? Whether the Government, Parliament or Judiciary takes the responsibility of the good and unbiased behavior by the society ? Who will ensure that such economically advanced and competent candidates will not be discriminated ?

It is not completely correct to hold that presence of money in the pocket, modern clothes, decent vehicle and good house will minimize the prejudices, hatred towards them and provide them immunity from being socially discriminated in different spheres of life. The dominant middle caste **Marathas** in Maharashtra who wield political power, possess wealth in the form of land, sugar industries, co-operatives, educational institutions etc also are still not treated equally by the Brahmins and are considered of low social status. This is precisely the finding of the State Backward Commission on the basis of which the Maratha community was deemed to be socially backward.

A Dean of Maratha caste of a reputed professional college confided that he had finalized one bungalow for purchase and also paid initial booking amount, at the time of executing sale deed when it became known that he was Maratha the transaction was cancelled and booking amount was returned to him. A Maratha doctor hired a place on rent when he joined a college as Assistant Professor, when his high caste landlord came to know his caste he was asked to vacate the place. A Maratha officer in a government office on

transfer to new town while searching house was asked his caste and then informed that place will be rented only to persons of a particular higher caste.



This is the advertisement from a local newspaper in Pune where a cook and maid is sought by a Bramhin family specifying that cook should be from Bramhin caste while maid can be from Maratha caste.

All the above incidents are from 2015 to 2017 and are associated with known friends and colleagues from Maratha community. In Sept 2017 a Bramhin lady Dr Medha Khole, working as Deputy Director at Indian Meteorological Department, Pune not only fired her cook when she discovered that she is not a Bramhin (but Maratha) but also filed police complaint against her for hurting religious sentiments along with charges of impersonation and fraud.

There are incidents on record of discrimination of not only rich SC ST officers, but even Member of Parliament and Legislative Assemblies, Ministers, Constitutional post holders also. In **2011 P N Punia**, who himself was Chairman of National Commission for SC ST, a constitutional body, was denied entry in a temple at **Puri**. In **June 1998 Bharthari Prasad**, then Additional Sessions judge in Allahabad, was transferred to another court, his successor **A K Srivastava** a Brahmin, had got the entire chamber and its furniture washed with 'Ganga jal' because it was previously occupied by a judicial officer belonging to a Scheduled Caste.

These examples being already known in common public hence quoted, the daily newspapers are full of similar incidents with common masses. India has miles to go on the road of social equality. If Marathas who are socially superior to SC ST in caste hierarchy, who were wealthy and educated, become victims of caste based discrimination **what could be the situation of SC ST individuals ?**

PIL FILED BY SAMATA ANDOLAN SAMITI IN DECEMBER 2017 IN SUPREME COURT FOR APPLYING CREAMY LAYER TO SC ST

Don't get misled by the name "Samta Andolan Samiti", which prima facie indicates that it is an Anti caste organization fighting for equality, no this is not the case, it is a very beautiful camouflage where the Savarnas are leading this Anti Reservationists organization in Rajasthan who had filed the PIL pleading on following grounds :-

- The benefits of Reservation are snatched by 4% to 5% of SC STs who have become a neo exploiter group and keeping the remaining 95% forever backward.

- Main cause of Naxalite movement is the frustration and depression in the backward people of SC ST to whom the benefits of Reservations have not reached despite 70 years.
- The Neo exploiter group (5%SC ST) are involved in National disintegration activities.
- Non exclusion of creamy layer from SC STs is perpetuating the caste system

The PIL also gives reference to the recommendation of Lokur committee which was an "Advisory committee on revision of list of SC ST" constituted in 1965 which recommended that the benefits enjoyed by SC ST should be withdrawn in a phased manner and **De-scheduling** of relatively advanced communities should be seriously considered.

Supreme court is still hearing the matter.

In **2008** in the case of **Ashok Kumar Thakur vs Union of India** in which the 93rd Amendment providing reservations to OBC, SC, ST in higher education in private educational institutions and Central Educational Institutions (Reservation in Admission) Act 2006 was challenged, **Supreme Court ruled out application of creamy layer to SC ST**. The parties who filed their writ in Supreme Court were Resident Doctors Association, Youth for Equality, All India Equity forum, Citizens for Equality and were represented by **Advocate K K VenuGopal** who is now the Attorney General of India. The judgment was passed in **April 2008** by 5 judge bench headed by Honorable CJI K.G.Balkrishnan.

On **26Sept2018** Supreme Court in its judgment in the case of **Jarnail Singh Vs Laxmi Narain Gupta** observed that Parliament as well SC has the power to apply creamy layer principle to SC ST categories.

WHY THE INSISTENCE ON APPLICATION OF CREAMY LAYER TO SC ST ?

Because of this protective and participative policy of Reservations some of the SC ST people were able to empower themselves **educationally, then financially and later on intellectually also**. Intellectually here means expert and talented in their own respective fields. So whether this intellectual empowerment is posing any risk to the **Bramhinal Social Order (BSO)** ? No, the intellectuals, the experts and talented doctors, engineers, administrators, scientists, entrepreneurs, academicians etc do not pose any risk to the caste / varna based Social Order. It is the **ideological empowerment** of these intellectuals which is giving sleepless nights to the advocates of caste / varna based Social Order.

Ideological empowerment means getting acquainted with the Constitutional thought process, philosophy and values which are the anti dote to Bramhinal Social Order (BSO). These ideologically empowered SC

ST people have awakened the OBC and made them aware of their exploitation and deprivation. Now even the OBC, Marathas are kindled with spirit of Constitutional ideology and joining hands with the SC ST people to neutralize the ill effects of Bramhinal Social Order (BSO). Constitutional philosophy is the biggest and only challenge to the Bramhinal Social Order (BSO).

The reason for this educational, financial, intellectual and subsequently ideological empowerment is the Constitutional Policy of Reservations (CPR), so if this nourishment is blocked then gradually these active beneficiaries will not be able to sustain themselves and will eventually run out of resources. They will once

again be engrossed in searching their livelihood and fulfilling their basic needs, thus no more active ideological involvement and the threat to Bramhinism will melt down.

CONSEQUENCE OF APPLICATION OF CREAMY LAYER TO SC ST CATEGORIES

Majority of the poor among SC and ST's do not manage to educate their children upto 10th and 12th how will it be possible for them to take advantage of the Reservations in higher education ? In the absence of higher education how will these poor from SC ST's be able to take advantage of Reservations in public services ?

Due to overall inflation in economy, Commercialization & Privatization of Education, even the MIDDLE CLASS is struggling to bear the educational costs of their children. If **income** criteria is made applicable to SC ST's than the net outcome will be that those rich SC ST's *who are having the capability* to provide complete and quality education to their children will **NOT** be eligible for availing Reservations. On the other hand *the poor among SC ST's would not be in a condition* to avail the benefit of Reservations, **ultimately the Reserved seats will remain vacant and after few years they will be de-reserved and converted into Open/General category.**

XIII - MERIT OF UN-RESERVED AND EFFICIENCY OF RESERVED

- 1) Art 335 of Indian Constitution speaks about “efficiency” NOT merit. There is difference between MERIT & EFFICIENCY; both are not one and the same. Academic Merit / rank can be seen on the score card, on the merit list while efficiency cannot be verified on paper but on the actual ground in the form of performance output.
- 2) Merit is quantitative while efficiency is **qualitative**; Merit is theory while efficiency is **application**. Merit is acquiring of information and knowledge, while efficiency is application of acquired information and knowledge.
- 3) Those scoring more marks in a standardized test / exam are more meritorious and those scoring less marks are less meritorious - this linear equation can be true only when ALL the other factors are kept constant which we know are not. If scoring more marks in FAVOURABLE conditions is merit than scoring lesser marks in ADVERSE conditions is efficiency.
- 4) To claim, control and command knowledge based resources, material resources on the ground of self proclaimed merit in a disproportionate manner and detrimental to the interests of majority smacks of colonial British imperialism.
- 5) The self proclaimed merit is ANTI CONSTITUTIONAL because theoretical merit does not matches with the practical efficiency, the self proclaimed merit is ANTI NATIONAL because it looks with contempt at the efficiency of fellow citizens, the self proclaimed merit is MALEVOLENT because it does not values the principle of equitable sharing and ownership.

Efficiency will be the norm if one has to select a person to work for him. Merit is a attribute, indicative of intelligence, perseverance and diligence. Perhaps, these qualities are also very important. Other qualities like honesty, sincerity are most important, though invisible. There are many qualities like ability to work in a group, discipline, tolerance, temperament, interpersonal relationship, initiatives, leadership, problem solving ability etc are important at workplaces.

The corporate sector goes through many such aspects while selecting the employees for their organizations. Only, in government sector academic merit is still given too much importance.

HUMILIATING THE RESERVED CATEGORIES CITING MERIT & EFFICIENCY

The students, candidates, employees of SC, ST, OBC, NT, DNT categories are frequently humiliated by saying that they lack merit, they are inefficient, they do not deserve but are still admitted etc. Still further it is ranted that policy of reservations has deteriorated the efficiency in public sector and administration in government departments / institutions. These allegations are leveled aiming at the **relaxations** given to the Reserved categories in cut off marks, age limit, number of attempts etc. The **relaxations** attached with

the policy of Reservations are the main reason why the students/candidates of unreserved, open category insult and denigrate the Reserved category students/candidates.

Now the question is **what is the basis of such negative opinion about the reserved category ?** Had any such objective study / survey / exercise been carried out by any government department or independent agency under the instructions of any Government assessing the performance of students of reserved category vis a vis open category after completing their degrees / courses ? Are there any reports submitted by any Secretary / Head of the office / department to the Government indicating that the poor performance of that particular office / department is because of such SC ST OBC NT DNT officials ?

Has any premier recruiting agency of the State / Union - Public Service Commission carried out such an exercise and arrived at such an inference ? We are aware that nothing of such sort has been ever done or reported with a conclusion that **reserved category students were not successful in their respective professions after availing relaxations during admissions ?**

These Relaxations to Reserved category students are limited only during ADMISSIONS, later on all the students have to study and learn the same syllabus, all the students have to go through same tests, same written examinations and same practicals. The students from reserved categories are not provided any additional facilities or relaxations to qualify the exams. If it is so, after completing the course and obtaining degrees in the same fashion, how can it be said that the students from reserved categories do not possess sufficient skills and are not competent ?

We are also aware that nothing of such sort has been ever done or reported with a conclusion that efficiency of Administration of any PSU / government department / institution has been adversely affected because of the SC ST OBC NT DNT officials who have been appointed as well as promoted by relaxing the standards.

On the contrary one case study in Indian Railways has been conducted recently in March 2014, for the period 1980 to 2002, which specifically explores this sole issue, titled (which is self explanatory) ***“Does Affirmative Action Reduce Productivity ? A Case Study Of The Indian Railways”*** undertaken by **Ashwini Deshpande** (Delhi School of Economics, University of Delhi) and **Thomas E. Weisskopf** (Department of Economics, University of Michigan, Ann Arbor, MI 48109, USA). The authors of this study have spelt out the objective as well as the conclusion of their study in their 26 page study report, the beginning of which is reproduced below.

Abstract:

*“Our objective is to shed empirical light on a claim often made by critics of affirmative action policies: **that increasing the representation of members of marginalized communities in jobs comes at the cost of reduced productive efficiency.** We undertake a systematic empirical analysis of productivity in the Indian Railways – **the world’s largest employer** subject to affirmative action – in order to assess whether higher proportions of affirmative action beneficiaries in employment have reduced efficiency in the railway system. **We find no evidence for such an effect; indeed, some of our results suggest that the opposite is***

true.”

The report of this case study was also published in the national newspaper “The Hindu” under the caption “Quotas do not hurt efficiency” which is produced below.

THE  HINDU

Quotas do not hurt efficiency, says study

Rukmini S., NEW DELHI:, FEBRUARY 05, 2015 02:02 IST

It measured impact of reservation on productivity in Railways

{ A first-of-its-kind study of the impact of reservations in public sector jobs on productivity and efficiency has shown that the affirmative action did not reduce productivity in any sector, but had, in fact, raised it in some areas. Despite being widespread and much-debated, India’s reservation policy for the educationally and socially backward classes is poorly studied. While there is some research into the impact of reservations in politics and in higher education, there has been no study yet of its impact on the economy.

In the pioneering study, *Ashwini Deshpande*, Professor at the **Delhi School of Economics**, and *Thomas Weisskopf*, Professor of Economics at the **University of Michigan**, measured the impact of reservation for Scheduled Castes (SCs) and Scheduled Tribes (STs) on productivity and efficiency in the Indian Railways between 1980 and 2002. The study was published in the World Development journal.

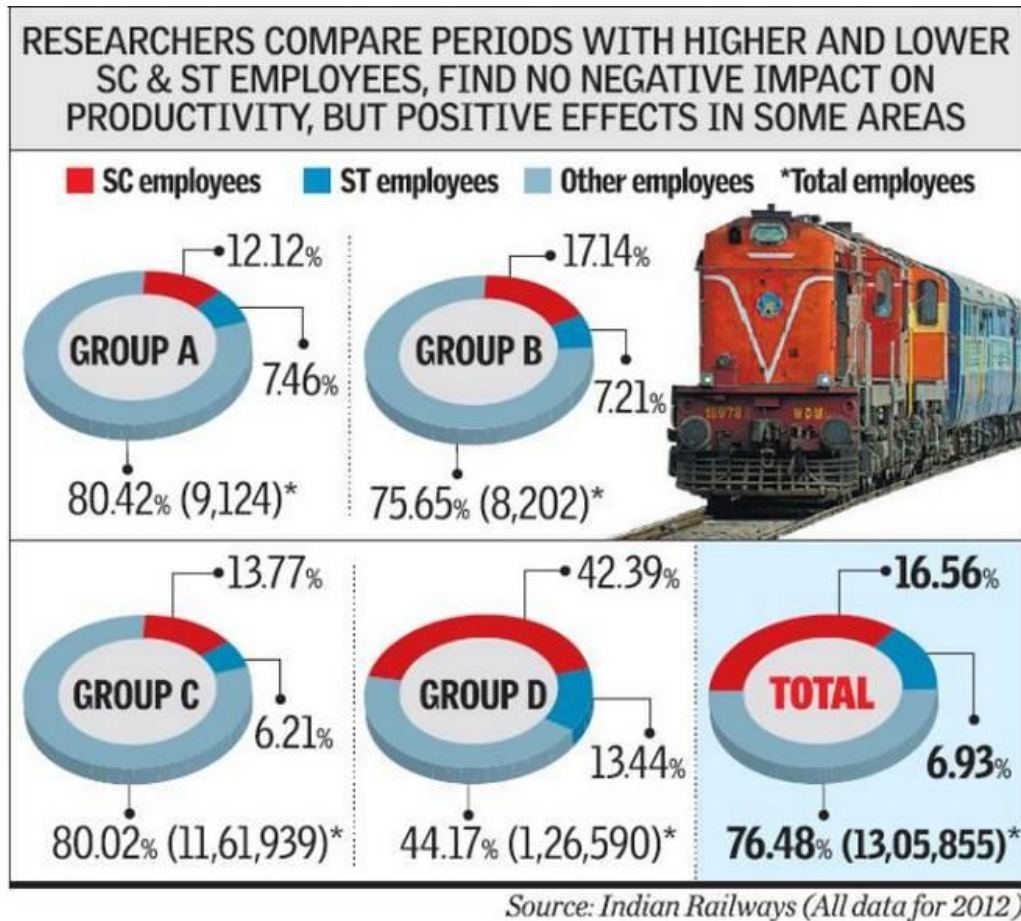
The Indian Railways is the world’s largest employer where affirmative action applies, Ms. Deshpande said. It employs between 1.3 and 1.4 million people at four levels of employment — Group A to Group D, with Group A employees being the senior-most. There is 15 per cent reservation for the SCs and 7.5 per cent reservation for the STs at all levels, with additional reservation for Other Backward Classes (OBCs). The study looked at SC and ST employees in Group A and B only, since people from marginalised backgrounds would have been unlikely to reach high levels of employment without reservation.

Since an individual’s impact on productivity is impossible to estimate, Ms. Deshpande and Mr. Weisskopf compared zones and periods of time with higher numbers of SC and ST employees with those with lower numbers, keeping other variables constant. **They found no negative impact on productivity and efficiency in any area, and some positive effects in some areas of work.**

“Beyond the numbers, we can speculate about the reasons for why there might be some positive impact of affirmative action,” Ms. Deshpande explained. **“Individuals from marginalised groups may be especially highly motivated to perform well when they attain decision-making and managerial positions, because of the fact that they have reached these positions in the face of claims that they are not sufficiently capable, and they may consequently have a strong desire to prove their detractors wrong,”** the authors suggested.

This is a possible explanation which rings true for Scheduled Caste employees of the Railways whom The Hindu spoke to. “At every level where there is discretionary power, SC/ ST employees are systematically discriminated against,” said B.L. Bairwa, the president of the All-India Scheduled Castes and Scheduled Tribes Railway Employees Association.

He cited a number of cases from across the country that he was battling, of deserving backward caste railway employees who had been passed up for promotions, transferred arbitrarily or given adverse records. **“When an SC or ST employee rises, he has to prove himself and work extra hard. I am not surprised the efficiency goes up,”** he said. }



There is also another study conducted on the bureaucratic performance of IAS officers recruited through Reservations conducted by **Rikhil R. Bhavnani** Associate Professor, Department of Political Science, University of Wisconsin–Madison & **Alexander Lee** Assistant Professor, Department of Political Science, University of Rochester.

In their research paper titled ***“Does Affirmative Action Worsen Bureaucratic Performance? Evidence from the Indian Administrative Service”*** they have evaluated the comparative performance of IAS officers recruited through affirmative action and others in the implementation of the world’s largest anti-poverty

program, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). The Abstract of their research study is reproduced below :-

Abstract

"Although bureaucratic recruitment in many countries features affirmative action programs for marginalized groups, the influence of these programs on the effectiveness of bureaucracies has rarely been examined. Many worry that affirmative action reduces bureaucratic effectiveness by diminishing the quality of recruits, while others posit that it improves effectiveness by making recruits more representative of and responsive to the population.

We test for these possibilities using unusually detailed data on the recruitment, background and careers of Indian Administrative Service officers. We examine the effect of affirmative action hires on district-level implementation of MGNREGA, the world's largest anti-poverty program. Our analysis suggests that minority officers recruited via affirmative action perform no worse than others, minorities recruited without affirmative action perform slightly better than others, and the difference is driven by the lower exam ranks of affirmative action officers. **Equity does not come at the cost of efficiency.**"

Moving further, are the reserved categories the only ones who are given these relaxations / concessions ? Are there no other quotas, other than Reserved categories, where similar relaxations are offered ?. There are at least **SIX** different quotas during admissions in professional education Colleges / institutes and in Public Employment where MARKS / MERIT / RANK is not the criteria.

The **OTHER QUOTAS** for admission in professional education Colleges / Institutes are :-

1. Donation / Payment quota.
2. Management quota.
3. Non Resident Indian (NRI) quota.

The students securing admissions through the above quotas also do not possess equal MARKS / MERIT / RANK but their merit and efficiency is never questioned. Similarly the **OTHER QUOTAS** for selection in public employment are :-

4. Defense quota.
5. Sports quota.
6. Physically Handicapped quota.

Here also the relaxations are provided to candidates from above quotas but they are never at the receiving end from the forward castes / open category.

(The examples of above quotas is given only for the sake of argument, it is not at all the intention to cast any doubts on the students / candidates from all above six quotas.)

The specific and selective targeting of Reserved categories in the name of merit and competency and not uttering a word about other quotas amply proves that **it is only the expression of prejudice and of hatred towards the backward caste people.**

There are NO RESERVATIONS in Judiciary, Defense, Sports, Films, Private sector etc and therefore India is having the most speedy & efficient Judicial system, completely safe, secured and sealed country boundaries, winning dozens of gold medals in Olympic and every sport event, never missed an Oscar in any year and enjoying the dominance of products from Indian MNC's in world market. **This is just to make the point and not to cast any aspersions.**

XIV - A NATIONALIST & RATIONALIST SCHEME OF EQUAL PARTICIPATION

We, the people of India, are already witnessing many structural fault lines and fissures drenched in the sentiments of caste, community, religion, language, region, etc. Let's not add one more fissure in the name of Reservations, reserved category and un-reserved category. Every citizen of this country has equal rights to have access to all the avenues and opportunities for a healthy, prosperous and dignified way of living.

Let us accept this core constitutional principle and accordingly think of opening THE GATEWAY OF OPPORTUNITIES to all the people of this country irrespective of caste, community, religion, language, region etc. Let us be dispassionate and objective in our approach and make arrangements for ensuring **EQUAL PARTICIPATION** (not reservation) of all the diverse social groups, of all the upper castes and lower castes, of all the forward castes and backward castes, of all religious groups in terms of their demography, in terms of their population, **with inbuilt 50% representation for women of all social groups**, in all walks of human lives - economic, political, educational, industrial, agricultural etc

This approach will not only instill a sentiment of enjoyment of equal opportunities in minds of all the social groups but it will also be a TRULY democratic, representative and participative in nature and in perfect harmony with the republican and socialist form of systems this country has adopted. Can we think of such a model where there is **equal participation** of all the diverse social groups, of all the people of this country, in terms of their demography, **not only in the matters of employment, education but also in all the democratic institutions like Legislatures, Judiciary and Executive, not only in the relatively smaller governmental sphere but also in all the larger non-governmental spheres, private sector.**

The aspects of workability, modalities and feasibility can be carved out later on in the Legislative domains within the legal and constitutional framework, not to forget the judicial scrutiny, but in principle can be agreed upon considering the larger interests of ALL THE PEOPLE OF INDIA.

NATIONALIST SCHEME OF EQUAL PARTICIPATION			
Social Groups	Population	Participation	
		Males	Females
Forward caste groups - Bramhins, Kshatriyas, Rajputs, Thakurs, Vaishyas, Baniyas	16%	8%	8%
Religious Minorities	8 %	4%	4%
OBC, NT, DNT	52 %	26%	26%
SC	16 %	8%	8%
ST	8 %	4%	4%

For implementation of this model the figures of socio economic caste census will be required to be released so as to know the exact population of every social group, Constitution will be required to be suitably amended, a law will be required to be enacted and the said law would be required to be placed in the Ninth Schedule of the Constitution.

Certificate for Social Justice

to

Scheduled Castes

This is to certify that Shri / Shrimati / Kumari
son / daughter of of village / town
..... in District / Division of the State / Union
Territory belongs to the CASTE having serial
number which is recognized as a Scheduled Caste under :-

@The Constitution (Scheduled Castes) Order 1950

@The Constitution (Scheduled Castes) Union Territories Order 1951

[As amended by the Scheduled Castes and Scheduled Tribes List (Modification) Order 1956; Bombay Reorganisation Act 1960, Punjab Reorganisation Act 1966, State of Himachal Pradesh Act 1970, North Eastern Areas (Reorganisation) Act 1971, Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976, State of Mizoram Act 1986, State of Arunachal Pradesh Act 1986 and Goa, Daman and Diu (Reorganisation) Act 1987]

@The Constitution (Jammu and Kashmir) Scheduled Castes Order 1956

@The Constitution (Dadar and Nagar Haveli) Scheduled Castes Order 1962

@The Constitution (Pondicherry) Scheduled Castes Order 1964

@The Constitution (Goa, Daman and Diu) Scheduled Castes Order 1968

@The Constitution (Sikkim) Scheduled Castes Order 1978

@The Constitution (Scheduled Castes) Order Amendment Act 1990

@The Scheduled Castes and Scheduled Tribes Order (Amendment) Act 2002

@The Constitution (Scheduled Castes) Order Amendment Act 2002

@The Constitution Scheduled Castes and Scheduled Tribes Order (Amendment) Act 2002

@The Constitution (Scheduled Castes) Order Second Amendment Act 2002

2. Applicable in the case of Scheduled castes persons who have migrated from one state / Union territory to another.

This certificate is issued on the basis of Certificate of Social Justice to Scheduled caste issued to Shri / Shrimati Father /Mother of Shri / Shrimati / Kumari of village / town in District / Division of the State / Union Territory who belongs to the CASTE having serial number which is recognized as a Scheduled Caste in the State / Union Territory of issued by the dated

3. Shri / Shrimati / Kumari and / or his / her family ordinarily resides in village / town of District / Division of the State / Union territory of

Signature
Designation

(With seal of office)
State / Union territory

Place
Date

Certificate for Social Justice *to* *Scheduled Tribes*

This is to certify that Shri / Shrimati / Kumari son / daughter of of village / town in District / Division of the State / Union Territory belongs to the CASTE having serial number which is recognized as a Scheduled Caste under :-

@The Constitution (Scheduled Tribes) Order 1950
@The Constitution (Scheduled Tribes) Union Territories Order 1951

[As amended by the Scheduled Castes and Scheduled Tribes List (Modification) Order 1956; Bombay Reorganisation Act 1960, Punjab Reorganisation Act 1966, State of Himachal Pradesh Act 1970, North Eastern Areas (Reorganisation) Act 1971, Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976, State of Mizoram Act 1986, State of Arunachal Pradesh Act 1986 and Goa, Daman and Diu (Reorganisation) Act 1987]

@The Constitution (Andaman and Nicobar islands) Scheduled Tribe Order 1959 as amended by Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976,
@The Constitution (Dadar and Nagar Haveli) Scheduled Tribes Order 1962
@The Constitution (Uttar Pradesh) Scheduled Tribes Order 1967
@The Constitution (Goa, Daman and Diu) Scheduled Tribes Order 1968
@The Constitution (Nagaland) Scheduled Tribes Order 1970
@The Constitution (Sikkim) Scheduled Tribes Order 1978

@The Constitution (Jammu & Kashmir) Scheduled Tribes Order 1989
@The Constitution (Scheduled Tribe) Order Amendment Act 1991
@The Constitution (Scheduled Tribe) Order (Second Amendment) Act 1991
@The Scheduled Castes and Scheduled Tribes Order (Amendment) Act 2002
@The Constitution Scheduled Castes and Scheduled Tribes Order (Amendment) Act 2002
@The Constitution (Scheduled Castes) Order Second Amendment Act 2002

2. Applicable in the case of Scheduled tribes persons who have migrated from one state / Union territory to another.

This certificate is issued on the basis of Certificate of Social Justice to Scheduled Tribe issued to Shri / Shrimati Father /Mother of Shri / Shrimati / Kumari of village / town in District / Division of the State / Union Territory who belongs to the TRIBE having serial number which is recognized as a Scheduled Caste in the State / Union Territory of issued by the dated

3. Shri / Shrimati / Kumari and / or his / her family ordinarily resides in village / town of District / Division of the State / Union territory of

Signature
Designation

(With seal of office)
State / Union territory

Place
Date

Certificate for Social Justice

to

Other Backward Classes

1. This is to certify that Shri / Shrimati / Kumari
son / daughter of of village / town
..... in District / Division of the State / Union
Territory belongs to the community having
serial number which is recognized as a backward class under the Government of India,
Ministry of Social Justice and Empowerment's Resolution No dated
.....

2. This is also to certify that he / she does not belong to the persons / sections (Creamy layer) mentioned
in column 3 of the Schedule to the Government of India, Department of Personnel & Training OM No.
36012/22/93-Estt. (SCT) dated 8.9.1993.

Signature

Designation

(With seal of office)

State / Union territory

Place

Date

RESERVATIONS WON'T BE REQUIRED IF

- If the hierarchical notion of caste is removed from the minds of people.
- If there is a social order free of ID3 – Inequality, Discrimination, Deprivation and Denial of opportunities.
- If the Anti national, Anti Constitutional Caste system is abolished by suitably amending Article 17.
- If the People of India transform into Citizens of India by transgressing the notion of caste, religion, race, language, region, gender.
- If there is free quality education from KG to PG for all the citizens.
- If there is a mechanism for free and impartial selection of candidates.
- If the scholarships, coaching, hostel facilities are provided to all students.
- If there are affordable educational, medical and housing facilities for all citizens.
- If there is compulsory participation of all citizens in the so called un-clean occupations.
- If the school children are taught the provisions, necessity and values of Indian Constitution.
- If the school children are taught the reasons why the Constitutional protections of Reservations were required to be introduced.
- If the school children are taught the difference between economic development and social justice.
- If the school children are made known how many people are killed, mutilated, raped on the grounds of caste.
- If the school children are made known how violent discrimination is practiced in villages and silent discrimination in cities.

	VEDIC RESERVATIONS	CONSTITUTIONAL RESERVATIONS
Beginning	Since 1700 BC, that is since 2018 + 1700 = 3,718 years	Since 1950, that is since 67 years
Beneficiaries	Savarna class - Bramhins, Kshatriyas, Vaishyas	Shudras, Untouchables, Tribals - OBC SC ST NT DNT
Population benefitted	15 - 20 % population	80 - 85 % population
Quantum	100 %	49.5 %
Basis	Being twice born Savarna through Upanayana ritual	Inequality, Discrimination, Deprivation, Denial of opportunities
Areas	Religion, Polity, Warfare, Wealth, Employment, Education, Marriage, Life style	Employment, Education, Legislatures
Source	Ancient Vedic Bramhinical scriptures	Constitution of modern India
Value system	Against the modern democratic values	In tune with modern democratic values

Journey from *Caste* to *Category* into a *Class*

5013

Other Backward
caste groups

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OBC category

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1108

Untouchable
caste groups

|

|

SC category

|

|

|

744

Tribal
groups

/

/

ST category

/

/

/

Reserved Class / Backward Class

(6865 social groups / 75% Indian Society)

Consolidated & Integrated by

CONSTITUTIONAL POLICY OF RESERVATIONS